3721

SUPREME COURT OF THE UNITED STATES.

No. 189.

THE UNITED STATES, APPELLANTS,

vs.

CIPRIANO THURN AND HORACE W. CARPENTIER.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in case No. 306—*Domingo Peralta, claimant, vs. The United States, defendant—for the place named Canada del Corte de Madera.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this fourteenth day of August, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Domingo Peralta for the place named "Cañada del Corte de Madera," was presented, and ordered to be filed and docketed with No. 306, and is as follows, to wit:

(Vide page 5 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *June* 10*th*, 1854.

In case No. 306, Domingo Peralta for the place named "Cañada del Corte de Madera," the counsel for the claimant filed the following stipulation, to wit:

(Vide page 68 of this Transcript.)

SAN FRANCISCO, *November* 28, 1854.

Case No. 306 was ordered to be placed at the foot of the 3d class cases on the trial docket.

SAN FRANCISCO, *December* 26, 1854.

Case No. 306 was ordered to be placed at the foot of the 4th class cases on the trial docket.

SAN FRANCISCO, *January* 16, 1855.

Case No. 306 was submitted under the rule of 21 of March, 1854.

SAN FRANCISCO, *January* 23*d*, 1855.

In the same case the counsel for the claimant filed the following stipulation, to wit:

(Vide page 67 of this Transcript.)

In the same case, the deposition of Antonio Bernal, a witness in behalf of the claimant, taken before Commissioner Peter Lott, in accordance with the stipulation annexed hereto, was filed.

(Vide page 7 of this Transcript.)

SAN FRANCISCO, *January* 29, 1855.

In the same case, the deposition of Antonio Ma. Pico, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed.

(Vide page 8 of this Transcript.)

SAN FRANCISCO, *February* 9, 1855.

In the same case, the counsel for the claimant filed the following affidavit in accordance with the stipulation annexed thereto.

(Vide page of this Transcript.)

SAN FRANCISCO, *August* 14, 1855.

In the same case the U. S. asso. law agent filed the following motion and affidavit, to wit:

(Vide page 69 of this Transcript.)

Which motion was taken under advisement.

In the same case the counsel for the claimant filed the following affidavit, to wit:

(Vide page 71 of this Transcript.)

SAN FRANCISCO, *August* 21, 1855.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the board, upon the motion of the U. S. asso. law agent filed on the 14th instant, granting the same.

Whereupon it is ordered that this case be restored to and placed at the foot of the trial docket.

SAN FRANCISCO, *Aug.* 31, 1855.

In the same case the deposition of Juan B. Alvarado, a witness in behalf of the United States, taken before Commissioner Alpheus Felch, was filed.

(Vide page 74 of this Transcript.)

SAN FRANCISCO, *Sept.* 18, 1855.

Case No. 306 was submitted without argument, and taken under advisement by the board.

SAN FRANCISCO, *Oct.* 2*d*, 1855.

In the same case Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim.

(Vide page 77 of this Transcript.)

And the following order was made, to wit:

(Vide page 78 of this Transcript.)

Petition.

To the honorable the Board of United States Land Commissioners for the State of California.

The petition of Domingo Peralta respectfully represents, that in

the year 1833, General Figuero, then governor of California, granted to Maximo Martinez, conjointly with this petitioner, a tract of vacant land situated in the now county of Santa Clara, called "Cañada de Corte Madera," and bounded by the mission lands of Santa Clara, the rancho de las Pulgas, and the ridge of the Santa Cruz mountains, as will more fully appear from the original expediente and map now filed in the office of the surveyor general, a certified copy of which, together with the translations, will be filed in this case, and the originals proved, as shall be required.

This petition further shows, that said grant was made to this petitioner in consideration of long military services; that it was duly approved by the departmental assembly; that possession was properly given, and that all the conditions of said grant were faithfully complied with according to law.

This petitioner knows of no conflicting claim or title, except as follows: During the administration of Governor Micheltorena, the said co-grantee, Maximo Martinez, petitioned for and obtained a grant for two additional leagues, under and by virtue of which said Martinez now petitions to be confirmed in the sole ownership of the lands originally granted to him and this petitioner.

Your petitioner relies for the validity of this claim upon the original title deeds, and their subsequent approval and confirmation; upon the treaty, the principles of equity, the decisions of the U. S. Supreme Court, the laws and comity of nations, and the laws, usages, and customs of Mexico.

Wherefore he prays that his title may be confirmed to the undivided one half of the said grant of the "Cañada de Corte Madera," in the extent and with the boundaries indicated by the original expediente and design.

By his attorney,

H. W. CARPENTER.

Filed in office Aug. 14, 1852.

GEO. FISHER, *Sec'y.*

Recorded in record of petitions, vol. 1, page 199.

GEO. FISHER, *Sec'y.*

Deposition of Ant. Bernal.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *January* 20, 1855.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Antonio Bernal, a witness on behalf of the claimants, Domingo Peralta and Maximo Martinez, in case No. 306 on the docket of said board, and said witness being sworn, deposed in Spanish, which was interpreted by the interpreter of said board, as follows:

The U. S. law agent was present.

Questions by Mr. Carpenter for Claimants.

1st question. What is your name, age, and residence?

Answer. My name is Antonio Bernal; my age 30 years; my residence in Santa Clara county, California.

2d question. Are you acquainted with the rancho granted to Domingo Peralta and Mariano Martinez, and known as the Cañada del Corte Madera; and if yea, where is it situated?

Answer. Yes, I know the rancho named. If it is situated in the county of Santa Clara, it is near the source of the San Francisquito creek.

3d question. State what you know concerning the occupation of said rancho by Domingo Peralta, the claimant.

Answer. Domingo Peralta and Maximo Martinez built a wooden house on the place; I cannot say exactly when, but it was before the Americans came. Domingo Peralta lived in the house when I was a boy. The house was built on a small hill between the arroyo Matadero and San Francisquito. I think it is about 15 years since I was . I was then in Peralta's employment.

4th question. Did Domingo Peralta cultivate any part of said rancho?

Answer. He did cultivate and plant the land, and had a field enclosed; he had cattle and horses on the place—some 500 head of cattle; I was employed there by Peralta to herd cattle.

5th question. State where the arroyos Matadero and San Francisquito are?

Answer. The rancho is between the two creeks; I suppose it touches both creeks, but I do not know the boundaries of the rancho.

ANTONIO PERALTA.

Subscribed and sworn to before me this 20th day of January, A. D. 1855.

PETER LOTT, *Commissioner.*

The foregoing deposition may be considered in evidence, with the same force and effect as though taken and filed before the submission.

J. H. McKUNE,
U. S. L. Agent.

Filed in office Jan. 23, 1855.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 11, p. 257.

GEO. FISHER, *Sec'y.*

Deposition of Ant'o M. Pico.

UNITED STATES OF AMERICA,
State of California.

SAN FRANCISCO, *January* 27, 1855.

This day came before Peter Lott, commissioner for taking testi-

mony to be used before the board of U. S. land commissioners in said State, Antonio Maria Pico, a witness on behalf of the claimants, Domingo Peralta, in case No. 306, on the docket of said board, and said witness being sworn, deposed in Spanish, which was interpreted by the interpreter to said board, as follows:

The U. S. law agent is present.

Questions by Mr. Carpenter for Claimant.

1st question. What is your name, age, and place of residence?

Answer. My name is Antonio Maria Pico; my age is forty-five years; and I reside in the city of San José.

2d question. How long have you lived in California, and what offices, if any, have you held under the Spanish government?

Answer. I have lived in California all my life, and have held the offices of alcalde of the jurisdiction of San José, and deputy or elector of the electoral college.

3d question. State whether you are acquainted with the handwriting of José Figueroa and Augustin V. Zamorano, and whether or not you have ever seen them write?

Answer. I am acquainted with their handwriting and signatures, and I have seen them write.

4th question. Examine the document now shown you, purporting to be a grant in the Spanish language to Maximo Martinez and Domingo Peralta, which document is marked "Doc. H. J. T. No. 1, annexed to the deposition of Wm. A. Richardson, before Com. H. J. Thornton," and is filed in case No. 36 before the board of U. S. land commissioners, and a certified copy of which is filed in this case No. 306, marked B 4, and state whether or not the signatures on said document of José Figueroa, Augustin V. Zamorano and Zamorano, *and* their genuine signatures?

Answer. I have examined the document described in the foregoing question, and the signatures thereto are the genuine signatures of José Figueroa and Augustin V. Zamorano.

5th question. State what official positions, if any, the said Figueroa and Zamorano held in California in the years 1833 and 1834?

Answer. In 1833 and 1834, José Figueroa was governor and commandant general, and Zamorano was secretary of the Territory of Upper California.

6th question. Examine the document now shown you, being a document in the Spanish language marked Exhibit No. 3 to deposition of Wm. A. Richardson, taken in No. 36, H. J. T., and filed in case No. 36 before the board of U. S. land commissioners, a certified copy of which is filed in this case No. 306, marked "B 2," and state whether you are acquainted with the signatures of José Beneysa, José Ma. Alviso, Ygnasio Martinez, Louis Chaboya, Juan de Prado Mesa, Manuel Pena and Dolores Pacheco, and whether or not you have seen them write; and if yea, state whether

the several signatures to said document are genuine signatures respectively of the said persons?

Answer. I have examined the document described in the foregoing question, and the signatures therto are the genuine signatures respectively of the persons named in said interrogatory. I have seen them write, and am acquainted with their signatures.

7th question. Look again upon said document and state whether you are acquainted with the rubrics used on official papers by José Castro, Nicolas Gutierrez, Angel Ramirez and José Figueroa. If yea, state whether the rubrics on said documents attached to the names Castro, Gutierrez, Angel Ramirez, A. Ramirez, Ramirez and Figueroa, are the genuine signatures of said persons?

Answer. I am acquainted with the rubrics commonly used by the persons named in the foregoing interrogatory, when signing official papers, and I find the rubrics mentioned in said interrogatory to be their genuine signatures.

8th question. What office, if any, did José Ma. Alvisa hold in the year 1836?

Answer. He was constitutional alcalde of the pueblo of San José Gaudalupe.

9th question. Examine the document now shown you, marked "H. Y.," and filed in this case No. 306, (said document purporting to be a traced copy of an original expediente in the office of the surveyor general, and as such certified by the late surveyor gen'l,) and state whether the signatures thereto are the genuine signatures of the persons who purport to have signed it.

Answer. I have examined the document described in the foregoing interrogatory, and I find the signatures thereto to be genuine traced signatures respectively of José Maria Basques, José Figueroa, Augustin V. Zamorano, Salvio Pacheco, Estrada, Fr. Francisco Garcia, Diego, Rafael Gonzales, Carlos Antonio Carrillo, José J. Ortega, José A. Estudillo, José Castro, Juan B. Alvarado. I have seen said persons write and know their signatures.

10th question. Do you know the rancho called "Cañada Corte de Madera?" If yea, where is it situated?

Answer. I do know it. It is situated some four or five leagues northwesterly from San José, in Santa Clara county.

11th question. State what you know, if anything, concerning the occupancy of this rancho by Domingo Peralta.

Answer. Immediately after the concession of the rancho by the governor, Domingo Peralta occupied it in company with Maximo Martinez. They built a house of wood upon the rancho, and lived in it with their families. They also kept upon it herds of cattle, and droves of horses, and had corrals and fences.

A portion of the land was cultivated by them. They built the house upon the land, and occupied the same, and cultivated the land before the grant was made, and were living upon and occu-

pying the land at the time of the concession. Domingo Peralta continued to live there after the concession was made about two or three years.

Cross-examined by the U. S. Associate Law Agent.

1st question. Describe the house which you say was built on said land, and state the extent of the cultivation.

Answer. The house was a temporary one; it was about 15 varas in length, covered with boards. The planting was in several places about 400 or 500 varas square, more or less.

ANTONIO MA. PICO.

Subscribed and sworn to before me on this 27th day of January, A. D. 1855.

PETER LOTT,
Commissioner.

The foregoing deposition is admitted in evidence with the same force and effect as though the same had been taken and filed before the submission of the case No. 306.

LOUIS BLANDING,
Asso. Law Agent.

Filed in office Jan. 29, 1855.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 11, p. 283.

GEO. FISHER, *Sec'y.*

[*For map see original, page* 14.]

I, George Fisher, secretary of the board of U. S. land commissioners, &c., do hereby certify the foregoing to be a full, true and correct copy of a map on file in case No. 36, Maximo Martinez, claimant, and that the same is on file among the archives of said board, and in my care and custody as such secretary.

Witness my hand this third day of January, A. D. 1855.

(Signed) GEO. FISHER, *Secr'y.*

Filed in office Jan'ry 23d, 1855.

(Signed) GEO. FISHER, *Secr'y.*

[S. D. K.] H. G.

Espediente exhibited in the Depo. of Antonio Ma. Pico, in Case No. 306 *in 9th question in chief therein, January* 27*th,* 1855. *P. Lott, Com'r.*

Jurisdicion del Pueblo, No. 8, Año de 1833, de S. José Guadalupe.

Espediente.

Sobre el parage nombrado Cañada del Corte de Madera solicitado para su cultivo pro Macsimo Martinez y Domingo Peralta.

{Stamp in original.}

[3 S. D. K.]

Sello Tercero—Dos Reales.

Para los años de mil ochocientos veinte y seis y ochocientos veinte y viente y siete.

Sor. Comandante General y Jéfe Sup'r Politico:

Los ciudadanos Macsimo Martinez y Domingo Peralta vecinos del pueblo de San José Guadalupe y naturales del presidio de San Francisco, hijos yñetos de fundadores de la tierra, de la religion Catolica apostolica Romana sus oficios labradores ante V. S. con el mas debido respeto y sumision conforme alla lugar en derecho, se presenta, que abiendose presentado con fecha de 16 de Diciembre del año proximo p'o al Sor. Comandante Militar, ciudadano Agustin Vicente Zamorano, como consta del papel que representante acompañar á V. S. en solicitud del parage llamado la Cañada del Corte de Madera que tiene los linderos que se espresan en el citado papel para fomentarlo con agricultura de labores, y poner sus cortos bienes que de este—[3 S. D. K.]—modo poder ocurrir á las necesidades de sus crecidas familias en el los terminos que ya espresa el repetido memorial acompañando tambien á V. S. el diseño del sitado parage que V. S. se roriente, en siguiendo a V. S. aber ambos serbido á la nacion con honradez, el primero once años en la caballeria y sinco en la militia de artilleria. Y el segundo aberse lastimado en el servicio por cuya causa le dieron sustencia asolutamente se sentan dijuto y molestar la ocupadicima atencion de V. S. me estenderia mas pero conociendo la otra penetracion de V. S. con su gran benignidad esperamos se digne su superioridad aseder á nuestra peticion p'r que á mas de no perjudicar á nadie nos será felices. Por tanto A. V. S. pedimos y suplicamos se digne prober en haber si á si lo allare en justiciá en que recibiremos gracia y merced. A ruego de los interesados, firma.

{Stamp for 1828 and 1829.}

{Stamp for 1830 & 1831.}

{Stamp for 1831 & 1832.}

JOSÉ MARIA BASQUES.

Monterey, Abril 24, de 1833.

[4 S. D. K.]

De conformidad con las leyes de la materia informe el ayuntamiento del pueblo de San José Guadalupe, si los interesados tienen los requisitos necesarios para ser atendidos en su solicitud, si el terreno que pretenden esta comprendido en las veinte leguas limitrofes o 1°litorales que espresa la ley de diez y ocho de agostos de mil ochocientos veinte y cuatro si ha pertenecido ó pertenece á propiedad particular corporacion ó pueblo ó le conoce por baldio con todo lo demas que sea conveniente á ilustrar, la materia.

AGUSTIN V. ZAMORANO, *S'rio.*

FIEGUEROA.

[5 S. D. K.]

Cumpliendo con el sup'r decreto debo decir que las partes interesadas son naturales del pais vecinos pertenecientes en este conocidos de honradez laboriosos con 200.40 cabezas de bienes de campo y el terreno que solicitan estos y ha estado desocupado no tiene el numero de leguas litorales ni las 20 limitrofes mas con todo esto no se perjudiquen los colindantes p'r el sobrado campo que tiene este sitio.

Sello Tercero—Dos Reales.

{ Stamp on original. }

Para los años de mil ochocientos veinte y seis y ochocientos veinte y siete. Pueblo de S. José Guadalupe, Ab'l 30 de 1833. SALVIO PACHECO.

{ Place of the stamp for 1828, 1829. }

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la comisaria subalterna interima del puerto de Monterey de la Alta California para los años de mil ochocientos treinta y uno y ochocientos treinta y dos.

{ Stamp from 1830 to 1831. }

{ Stamp from 1832 to 1833. }

ESTRADA.

VICTORIA.

[7 S. D. K.]

So'r Comandante Militar: Los ciudadanos Macsimo Martinez y Domingo Peralta, con la mayor sumicion y debido respeto que deben ante V. se presentan asiendo la solicitud del parage nombrado la Cañada del Corte de Madera el que esta entre los linderos de la mision de Santa Clara y el del finado Capitan Ciudadano Don Luis Antonio Argüello para fomentarlo con agricultura de labores y tenemos cortos bienes, pues tengo consultado, con ambas colindantes y prometen no ponernos embarazo reduciendonos desde la punta del Sausal de la Laguna asta los linderos de Santa Clara con las lomas que tiene al Sur y Poniente asta la Laguna de Guillermo teniendo el merito de abertido nuestros padres Y abuelos fundadores de la tierra y nosotros á serbido de buena conducta en la epoca en el servicio de las armas, dicha solicitud a sernos en calidades de prestado, quedando sugetos a presentarnos despues conforme la ley, por tanto a V. suplicamos se sirva prover a favor de los interesados de que le serviran reconocidos.

Pueblo de San José de Guadalupe 16 de Diciembre, de 1832.

A ruego de los interesados, firma.

JOSÉ MA. BERREYESA.

MONTEREY, 19 *de Diciembre, de* 1832.

Pueden los interesados en esta instancia hacer sus siembras en el parage que refieren en el concepto de no perjudicar á los colindantes

que tubieron y ademas cuidaran de hacer sugestion con los requisitos de ley á la vez y se presente en el Territorio el Sr. Géfe Superior Politico, quien resolvera en la materia lo que tubiere por conveniente.

ZAMORANO.

[8 S. D. K.]

Certifico que mi antecesor el R. P. Fr. José Viades dio permiso á los S'res Don Macsimo Martinez y Don Domingo Peralta para que ocuparan un terreno que esta al poniente de esta mision y sellama la Cañada del Corte de Madera. Asi mismo certifico que segun los informes que hé tomado, no perjudique este nuevo rancho á la mision de mi cargo antes por el contrario, puede ser muy util p'r ser los que le presenden sujetos honrades y para los efectos que convenga doy la presente en la mision de Santa Clara, á 17 de Marzo, de 1833. FR. FRANCO. GARCIA DIEGO.

[9 S. D. K.]

[*For map see original, page* 19.]

[10 S. D. K.]

Sello Cuarto de Oficio.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey de la Alta California para el limo de mil ochocientos treinta y dos y mil ochocientos treinta y tres.

RAFAEL GONZALES.

FIGUEROA.

Monterey, 18 de Mayo, de 1833.

Vista la peticion con que da principio este espediente el informe de la autoridad municipal del Pueblo de San José Guadalupe, certificado del Padre Ministro de la mision de Santa Clara con todo lo demas que se tubo presente y ver convino de conformidad por lo dispuesto por las leyes y reglamentos de la materia se declaró á los ciudadanos Macsimo Martinez y Domingo Peralta dueños en propiedad del terreno conocido con el nombre de la Cañada de Corte de Madera colindante con dicha mision y el rancho de las Pulgas sugetos á las condiciones que se estipularen librese el despacho correspondiente tomese razon en el libro respectivo y direjase este espediente para la debida aprovacion á la ex'ma deputacion territorial en cuyo caso los interesados á quienes se le hará saver un decreto presentaran nuevamente su titulo para que le revalide.

El S'or Don José Figueroa, Comandante General Inspector y Gefé Superior Politico del Territorio de la Alta California asi lo mando decreto y firmo. Doy fé.

AUGUSTIN V. ZAMORANO, *S'rio.*

JOSÉ FIGUEROA.

[11 S. D. K.]

El cuatro del mismo año abiendo ocurrido Macsimo Martinez por

Lara

si y á nombre de su compañero Domingo Peralta á esta secretaria de mi cargo se lo tengo al antesedente decreto del S'r Gefé Superior Politico y enterado de el digo que lo oye y por no saber escribir lo signo con una cruz.

AGUSTIN V. ZAMORANO.

[12 S. D. K.]

José Figueroa, General de Brigada de los Ejercitos Mejicanos, Comand'te General Inspector y Gefé Superior Politico del Territorio de la Alta California.

Por cuanto Maximo Martinez y Domingo Peralta han pretendido para su beneficio personal y el de sus familias el terreno conocido con el nombre de la Cañada del Corte de Madera colindante con la mission de Santa Clara, rancho de las Pulgas, y Sierra de Sta. Cruz; practicadas previamente las diligencias y aberiguaciones consernientes segun lo dispuesto por leyes, y reglamentos; usando de las facultades que me son conferidas á nombre de la nacion Mejicana hé venido en consederles el terreno mencionado, declarandoles la propiedad de el por las presentes letras sujetandose á la aprovacion ó des aprovacion de la ex'ma diputacion territorial, y del supremo gob'o y bajo las condiciones siguientes:

1a. Que se someteran á las que estableciere el reglamento que se ha de formar para la distribucion de terrenos valdios, y que entretanto ni el agraciado ni sus herederos podra divider ni enagenar el que se les adjudica imponer censo vinculo, fianza, hipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo á manos incertas.

2a. Podran sercarlo sin perjudicar las travecias caminos, y servidumbres, lo disfrutaran libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode; pero dentro de un año á lo mas fabricaran casa, y estaran habitada.

[14 S. D. K.]

Cuando se le confirme la propiedad solicitaran del juez respectivo que les de pòsesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites, pondran á mas de las mojoneras, algunos arboles frutales ó silvestres de alguna utilidad.

4a. El terreno de que se les hace donacion es de una legua cuadrada segun esplica el diseño que corre en el espediente el juez que diere la posecion lo hara medir conforme á ordenanza pa. señalar los linderos quedando el sobrante que resulte á la nacion para los usos convenientes.

5a. Si contraviniere á estas condiciones perdera su derecho al terreno, y sera denunciable por otro.

En consequencia mando que sirviendole de titulo el presente, y teniendose por firme y valedero se tome razon en el libro á que cor-

responde y se entregue á los interesados para su resguardo y demas fines. Dado en Montery, á diez de Junio de 1833.

[14 S. D. K.]

Las comisiones de colonizacion y terrenos baldios a quienes se pasa el espediente, cuya formacion prodictiva por pretencion los ciudadanos Macsimo Martinez y Domingo Peralta hisieron del parage nombrada Cañada del Corte de Madera, lo han examinado con la circunspecion, que corresponde teniendo el mismo tiempo presente la ley de 18 de Agosto de 1824, sus concordantes y las disposiciones generales que en 24 de Noviembre de 1828, dicto el supremo gobierno de la nacion para el mejor cumplimiento de la primera; del examen del espediente se ha penetrado la comision de la opinion que se ya tenia de la escrupalosidad, y tino con que el S'or gefé superior politico lo mando ynstruir, de suerte que ni en su formacion se estrabia algun requisito testimonial de los practicados.

Por lo dicho concluye la comision ofreciendo á la deliberacion de esta ex'ma diputacion la siguiente proposicion: 1a. Se aprueba la concesion hecha á los ciudadanos Macsimo Martinez y Domingo Peralta, del parage nombrado Cañada de la Corte de Madera concedido en 10 de Junio de 1833, de entera conformidad con lo prevenido en la ley de 18 de Agosto de 1824, y el art'o 5o. del reglamento de 21 de Noviembre de 1828.

Monterey, Mayo 1o, de 1834.

CARLOS ANTO. CARRILLO.
JOSÉ CASTRO.

JOSÉ Y. ORTEGA,
JOSÉ A. ESTUDILLO.

[15 S. D. K.]

MONTEREY, 17 *de Mayo, de* 1834.

En sesion de este dia se aprobo por la ex'ma diputacion la propocision del dictamen antecedente mandando se devuelva el espediente al S'or gefé superior politico para los fines consiguientes.

JUAN B. ALVARADO, *S'rio.*

JOSÉ FIGUEROA.

[16 S. D. K.]

[SEAL.]

Sello Tercero—Dos Reales.

Para los años de mil ochocientos veinte y seis y mil ochocientos veinte y siete.

[Seal for 1828, 1829.]
[Seal for 1830, 1831.]
[Seal for 1832, 1833.]
[Seal for 1834, 1835.]

MONTEREY, *Junio* 11, *de* 1834.

En vista de la aprovacion otorgada en 17 de Mayo ultimo, por la ex'ma diputacion territoriál.

Librese testimonio de ella y de este decreto á la parte de Don Macsimo Martinez y de Don Domingo Peralta, en confirmacion á

la concesion del terreno de la Cañada del Corte de Madera que obtubieron en 5 de Junio de 1833.

El S'or Don José Figueroa, general de brigada comandante general ynspector, y gefé superior politico de la Alta California, asi lo mando decreto y firmo, de que doy fé.

JOSÉ FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

Testimonio.

[17 S. D. K.]

Se aprueba la concesion hecha á los cuidadanos Macsimo Martínez y D. Domingo Peralta del parage nombrado Cañada del Corte de Madera, cancedido en 10 de Junio, de 1833, de entera conformidad con lo prevenido en la ley de 18 de Agosto, de 1824, y el articulo 5o del reglamento de 21 de Noviembre de 1828.

Monterey, 17 de Mayo, de 1834. En secion de este dia se aprovo pr. la ex'ma diputacion la propocision del dictamen antesedente, mandando se devuelva el esponiente al Sr. gefe superior politico para los fines consiguientes.

JOSÉ FIGUEROA.

JUAN B. ALVARADO, *Secretario.*

Monterey, Junio 11, de 1834. En vista de la aprovacion otorgada en 17 de Mayo ulto., por la ex'ma diputacion territorial; librese testimonio de ella y de este decreto á las partes de D. Macsimo Martinez y Don Domingo Peralta en confirmacion a la concesion del terreno de la Cañada del Corte de Madera que obtubieron en cinco de Junio del año pdo. El Sor. D. José Figueroa, general de brigada, comandante general ynspector y gefe superior politico de la Alta California, asi lo mando decreto y firmo, de que doy fé.

JOSÉ FIGUEROA.

AGUSTIN V. ZAMORANO, *Secretario.*

Concuerda á la letra con su original del cual hize sacar el presente testimonio para resguardo de la parte interesada en Monterey, á 11 de Junio, de 1836. Siendo testigos los ciudadanos Agustin V. Zamorano, y Barnardo Navarrete de esta vecindad.

OEFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and, as such, now having in my office and under my charge and control a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify, that the seventeen preceding and hereunto annexed pages of tracing paper, numbered from one to seventeen, inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit a true and accurate copies of certain documents now on file and forming part of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the city of San Francisco, this 11th day of September, A. D. 1851.

SAMUEL D. KING,
Surveyor General Cal'a.

Filed in office Jan. 23, 1855.

GEO. FISHER, *Sec'y.*

Translation of Espediente.

Jurisdiccion of the pueblo of San Jose Gaudalupe. The year 1833.

Record of proceedings for the place called "Cañada del Corte de Madera," solicited for cultivation by Maximo Martinez and Domingo Peralta.

{Stamp in original.} Third seal two shillings, for the years one thousand eight hundred and twenty-six and eight hundred and twenty-seven.

Señor Commandant General and Political Chief: The citizens Maximo Martinez and Domingo Peralta, residents of {Stamp 1828 & 1829.} the pueblo of San Jose, of Gaudalupe, and natives of the presidio of San Francisco, sons and grandsons {Stamp 1830 & 1831.} of the pioneers of this country, of the Roman apostolic religion, and laborers by occupation, with the {Stamp 1832 & 1833.} most due respect and the submission that is right and proper, represent to your honor that, having presented under date of the 16th December, of the past year, to the señor military commandant, citizen Augustin Vicente Zamorano, as appears by the document which they beg to accompany to your honor, in solicitation for the place called the "Cañada del Corte de Madera," which has the boundaries which are mentioned in the said document for the purposes of agriculture, and to place upon it their small herd of cattle, and in this manner to be able to meet the necessities of their increased families, in manner and form as expressed in said memorial; also accompanying to your honor the map of the said place, in order that your honor may be informed concerning it, reminding your excellency that they have both served the nation with honor, the former for eleven years in the cavalry and five years in the artillery, and the latter having been wounded in the service, on account of which he received a full discharge. Were we not afraid to become diffuse, and to trouble the much occupied attention of your honor, we could extend our remarks; but knowing the great penetration of your honor, and your great kindness, we hope that your honor will deign to accede to our petition, because, in addition to its not prejudicing any one, it will make us happy.

Therefore we pray and supplicate your honor that your honor

will deign to dispose favorably, if thus it shall appear just, in which case we shall receive favor and kindness.

At the request of the parties interested.

(Signed) JOSE MARIA BASQUES.

MONTEREY, *April* 24, 1833.

In conformity with the laws in this matter, let me, ayuntamiento of the pueblo of San Jose Gaudalupe, report whether the interested parties possess the qualifications necessary to the granting of their petition; whether the land for which they petition is included within the twenty boundary leagues, or the ten littoral leagues mentioned in the law of the eighteenth of August, eighteen hundred and twenty-four; whether it has belonged or now belongs to the property of any individuals, corporation, or pueblo, or is considered vacant, with whatever else may be calculated to illustrate the matter.

FIGUEROA.

AUGUSTIN V. ZAMARANO, *Sec'y.*

{Stamp 1828 and 1829.}

Complying with the superior decree, I must say that the interested parties are natives of the country, and good permanent residents of known honesty, laborious, with 200 to 400 head of cattle, and the land which they select is and has been unoccupied, is not within the number of littoral leagues, nor of the 20 boundary leagues. Moreover the coterminous neighbors will not be prejudiced on account of the rich land which the sitio contains.

Pueblo of San Jose Guadalupe, April 30, 1833.

SALVIO PACHECO.

{Stamp in original.}

Third Seal—Two shillings.

{Stamp 1828 and 1829.}

For the years one thousand eight hundred and twenty-six and eight hundred and twenty-seven.

{Stamp 1832 and 1833.}

Fourth Seal—Three cents.

Furnish provisionally for the temporary subaltern commissariat of the port of Monterey, in Upper California, for the years one thousand eight hundred and thirty-one and eight hundred and thirty-two.

ESTRADA.

VICTORIA.

Señor Military Commandant:

The citizens Maximo Martinez and Domingo Peralta, with the greatest submission and due respect, present themselves before you

soliciting the place named the "Cañada del Corte de Madera," which is between the boundaries of the mission of Santa Clara and and those of the deceased, the citizen Don Louis Antonio Arguello, to occupy it with the labors of agriculture, and with their few cattle, for I have consulted with both of the coterminous neighbors, and they promise not to interpose any obstacle limiting us from the point of the willow grove of the lagoon, up to the boundaries of Santa Clara, including the low hills, which are at the south and west as far as the lagoon of Guillermo, having the merit of our fathers and grandfathers, having been pioneers of the country, and ourselves having served with good conduct in the epoch in the service of the army.

We make said petition in the quality of a temporary grant, and remaining to present ourselves in conformity to law.

Wherefore we pray that you will be pleased to dispose in favor of the interested parties, for which they will live grateful.

Pueblo of San Jose Gaudalupe, 16 December, 1833.

At the request of the interested parties.

(Signed) JOSE MA. BASQUEZ.

MONTEREY, 19 *of Dec.*, 1832.

The parties interested in this application can make their crops upon the place to which they refer, on condition of not prejudicing the coterminous neighbors, whoever they may be; and, moreover, they shall take care to present their question with the requisites of the law as soon as the superior political chief may present himself in the Territory, who will determine as he may think proper in the matter.

ZAMORANO.

I certify my predecessor, the Rev. Father Friar Jose Valdez, gave permission to the Señores Don Maximo Martinez and Don Domingo Peralta to occupy a tract of land which is to the west of this mission, and is called the "Cañada de Corte de Madera."

I also certify, that according to the information which I have received, this new rancho will not prejudice the mission of my charge, but, on the contrary, may be very useful to it, since those who solicit it are honorable persons, and for the purposes which may be convenient, I give this in the mission of Santa Clara the 17th of March, 1833.

Friar FRANCO. GARCIA DIEGO.

Proyided provisionally by the administration of the maritime custom-house of Monterey, of Alta California, for the years one thousand eight hundred and thirty-two and eighteen hundred and thirty-three.

RAFAEL GONZALES.

FIGUEROA.

MONTEREY, *May* 18, 1833.

Having seen the petition with which this record of title begins, the report of the municipal authority of the pueblo of San Jose Gaudalupe, the certificate of the father of the minister of the mission of Santa Clara, with all the rest which was present, and which it was convenient to see, in conformity with that which is directed by the laws and regulations in the matter, the citizens Maximo Martinez and Domingo Peralta are declared owners in fee of the tract of land known by the name of the "Cañada del Corte de Madera," bounded by said mission and by the ranch of Las Pulgas, subject to the conditions which may be stipulated.

Let the corresponding despatch be issued, let a note be taken in the respective book, and let this record of proceedings be transmitted for its due approval to the excellent territorial deputation, in which case the interested parties who shall be informed of this decree will present their title anew, in order that it may be confirmed.

The Señor Don José Figueroa, commandant general and inspector and superior political chief of the Territory of Alta California, thus ordered, decreed and signed it.

I certify. JOSÉ FIGUEROA.

AUGUSTIN V. ZAMORANO.

On the fourth day of July of the same year, having come, for himself and in the name of his companion Domingo Peralta, to this office of the secretary under my charge, the preceding decree of the señor superior political chief was read to him, and being possessed of its contents, he said that he heard it, and not knowing how to write, he signed it with a cross, X.

AUGUSTIN V. ZAMORANO.

José Figueroa, Brigadier General of the Mexican Armies, Commandant and Inspector General and Superior Political Chief of the Territory of Alta California.

Whereas Maximo Martinez Domingo Peralta have petitioned, for their own benefit and for that of their families, for the tract of land known by the name of the "Cañada del Corte de Madera," bounded by the mission of Santa Clara, the rancho of the Las Pulgas and the high mountain of Santa Cruz, the proper inquiries and investigations having been previously had, according to that which has been provided by the laws and regulations, exercising the powers which were conferred upon me in the decree of the fifth of the present month, I have determined to grant them the land mentioned, declaring the full ownership of it to be theirs by these presents; said grant being understood to be in entire conformity to that which is commanded by the laws, subject to the approval or disapproval of the most excellent territorial deputation and of the supreme government, and under the following conditions:

1st. That they shall submit themselves to those which the regulations may establish, which will be made for the distribution of vacant lands, and that, meanwhile, neither the grantees nor their heirs can divide or alienate that which is appropriated to them; impose quit-rent, entail, reversion, mortgage or any other burden, even though it may be for a pious purpose.

2d. They may enclose the land without injury to the ways, roads and servitudes; they may enjoy it freely and exclusively, destining it to the use or cultivation which may best suit them; but within one year, at the furthest, they shall build a house and it shall be inhabited.

3d. When the property shall be confirmed to them, they shall petition the proper judge that he will give them judicial possession by virtue of this patent, by whom the boundaries shall be marked out; at the extremities of which they shall place, besides the monuments, some fruit trees or forest trees of some utility.

4th. The land of which donation is made is one square league in extent, as is shown by the map which runs with the expediente.

The judge, who shall give the possession, shall cause it to be measured according to the ordinance, in order to designate the boundaries; the overplus which may result remaining to the nation for its convenient uses.

5th. If they violate the conditions they shall lose their right to the land, and it shall be denounceable by another.

Wherefore I command, that upon the present serving them for a title, and being held as firm and valid, let it be recorded in the corresponding book, and let it be delivered to those in interest for their security and for other ends.

Given in Monterey, the tenth of June, 1833.

The commissioners of colonization and vacant lands, to whom was referred the record of proceeding annexed to the petition which the citizens Maximo Martinez and Domingo Peralta made for the place named Cañada del Corte de Madera, have examined with the circumspection which was due to it, having present at the same time the law of 18th of August, 1824, its regulations and the general provisions which the supreme government of the nation decreed on the 24th of November, 1828, for the better carrying into effect of the former law.

From an examination of the espediente, the commission has been presented with the opinion which it already held, of the said scrupulousness and prudence with which the supreme political chief has commanded to be informed, so that neither in its formation has any essential requisite been neglected, nor in the investigations.

Wherefore, the commission concludes by offering for the deliberation of this most excellent deputation the following proposition:

1st. The grant of the place named Cañada del Corte de Madera

made to the citizen Maximo Martinez and Domingo Peralta, on the 10th of June, 1833, in entire conformity to the requirements of the laws of 18th August, 1824, and the 5th article of the regulation of Nov. 21, 1828, is approved.

Monterey, May 10, 1834.

CARLOS ANTO. CARRILLO,
JOSE CASTRO.

JOSE J. ORTEGA,
JOSE A. ESTRADA.

MONTEREY, *May* 17, 1834.

In this session of this day was approved by the most excellent deputation the foregoing resolution commanding that the espediente be returned to the superior political chief of the consequent purposes.

JUAN V. ALVARADO, *Sec'y.*

JOSE FIGUEROA.

Seal third—Two shillings.

{Stamp on original.} For the years one thousand eight hundred and twenty-six, and eight hundred and twenty-seven.

MONTEREY, *June* 11, 1834.

In view of the approval given on the 17th of May last by the {Stamp 1828 and 1829.} most excellent territorial deputation, let a testimonial of it, and of this decree, be issued to the parties, {Stamp 1830 and 1831.} Don Maximo Martinez and Don Domingo Peralta, a confirmation of the grant of the land of the Cañada del Corte de Madera, which they obtained on {Stamp 1832 and 1833.} the 5th June, 1833. The Don José Figueroa, general of brigade, commandant general and inspector, {Stamp 1834 and 1835.} and superior political chief of Alta California, thus commanded, decreed and signed, which I certify.

AUGUSTIN V. ZAMORANO.

JOSE FIGUEROA.

Testimonial.

The grant to the citizen Maximo Martinez and Domingo Peralta of the place named Cañada del Corte de Madera made on the 10th of June, 1833, in entire conformity to the requirements of the law of 18th August, 1824, and article 9th of the regulation of No. 21, 1828, is approved.

MONTEREY, *May* 17, 1834.

In the session of this day the proposition of the foregoing resolution was approved by the most excellent deputation, directing the espediente to be returned to the superior political chief for the consequent ends.

JUAN V. ALVARADO, *Sec'y.*

JOSE FIGUEROA.

MONTEREY, *June* 11, 1834.

In view of the approval given on the 17 of May last by the most excellent territorial deputation, let a testimonial of it, and of this decree, be issued to the parties of Don Maximo Martinez and Don Domingo Peralta in confirmation of the grant of the land of the Cañada del Corte de Madera, which they obtained on the fifth of June of the past year.

The Señor Don José Figueroa, general of brigade, and inspector general, and superior political chief of Alta California, thus ordered, decreed, and signed it, which I certify.

JOSE FIGUEROA.

AUGUSTIN V. ZAMORANO, *Sec'y.*

It agrees, to the letter, with its original, from which I caused the present testimonial to be taken for the security of the interested party, in Monterey, the 11 of June, 1834, being witnesses the citizens Augustin V. Zamorano and Bernardo Navanete, of this place.

Filed in office Jan. 23d, 1855.

GEO. FISHER, *Sec'y.*

B 4.

Sello Primero—Seis Pesos.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro.

FIGUEROA. JOSÉ RAFAEL GONZALES.

José Figueroa, General de Brigada de los Ejercitos Mejicanos, Comandante General, Ynspector y Géfe Superior Politico del Territorio de la Alta California.

[L. S.]

Por cuanto Macsimo Martinez y Don Domingo Peralta han pretendido para su beneficio personal y el de sus familias el terreno conocido con el nombre de la Cañada del Corte de Madera colindante con la mision de Santa Clara, rancho de las Pulgas y Sierra de Santa Cruz, practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto pr. leyes y reglamentos; usando de las facultades que me son conferidas, en decreto del cinco del corriente á nombre de la nacion Mejicana, he venido en concederles el terreno mencionado declarandoles la propiedad de el por las presentes letras teniendo dicha concesion con entera conformidad a lo dispuesto por las leyes á reserva de la aprovacion ó desaprovacion de la excelentisima diputacion territorial y del supremo gobierno y bajo las condiciones siguientes.

1a. Que se someteran a las que estableciere el reglamento que se ha de formar para la distribucion de terrenos baldios y que entre tanto ni los agraciados ni sus herederos podran dividir ni enagenar el *el* que se les adjudica imponer censo, vinculo, fianza, hipoteca,

ni otro gravamen, aunque sea por causa piadosa, ni pasarlo a manos incertas.

2a. Podran sercarlo sin perjudicar las travecias, caminos, y servidumbres lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode; pero dentro de un año fabricara y estara habitada.

3a. Cuando se les confirme la propiedad solicitaran del juez respectivo que les de pocesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondran a mas de las mojoneras, algunos arboles frutales ó silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de una legua cuadrada segun esplica el diseño que corre en el espediente. El juez que diere la pocesion lo hara medir conforme a ordenanza quedando el sobrante que resulte a la nacion para los usos convenientes.

5a. Si contraviniere a estas condiciones perderan su derecho al terreno y sera denunciable por otro.

En consequencia mando que teniendose por firme el titulo y teniendose por firme y valedero se tome razon en el libro a que corresponde y se entregue a los interesados para su resguardo y demas fines.

Dado en Monterey a diez de Junio de mil ochocientos treinta y tres.

AUGUSTIN V. ZAMORANO,
Secretario.

José Figueroa.

Queda tomada razon en el libro de asientos de titulos sobre adjudicacion de terrenos a fojas ocho numero ocho que obra en la secretaria de mi cargo. Monterey, Junio 10, de mil ochocientos treinta y tres.

ZAMORANO.

I, George Fisher, secretary to the U. S. land commission, to ascertain and settle private land claims in the State of California, hereby certify the foregoing to be a true and correct copy of a document in case No. 36, Macsimo Martinez vs. the United States, for the place named "Cañada del Corte de Madera," now on file in this office.

In testimony whereof, I have hereunto signed my name at office, at the city of San Francisco, this 2d day of January, 1855.

GEO. FISHER, *Sec.*

No. 36.

Macsimo Martinez. Cañada del Corte de Madera.

Doc. H. J. T., No. 1, annexed to the depo. of Wm. A Richardson, before Com'r H. J. Thornton.

Filed in office Feb'y 8, 1853.

GEO. FISHER, *Sec.*

Recorded in record of Evde., vol. 6, pages 364, 365.
Filed in office, Jan'y 23, 1855.

GEO. FISHER, *Sec'y.*

Translation of Title "B 3."

José Figueroa, General Brigade of the Mexican armies, Commander General, Inspector and Superior Political Chief of the Territory of Alta California.

Whereas Macsimo Martinez and Domingo Peralta have solicited, for their personal benefit and that of their families, the land known by the name of the Cañada del Corte de Madera, bounded by the mission of Santa Clara, rancho of Las Pulgas and sierra of Santa Cruz, having previously taken the necessary steps and informations concerning it, according to the laws and regulations; using the powers vested in me by a decree of the fifth of the current month, in the name of the Mexican nation, I have determined to grant them the mentioned land, declaring to them the property thereof by these present letters, it being understood said concession to be in entire conformity with the provisions of the laws, subject to the approval or disapproval of the most excellent territorial deputation and that of the supreme government, and under the following conditions:

First. That they shall submit themselves to that which may be established by the regulation made for the distribution of vacant lands; and that, in the meanwhile, neither the grantees nor their heirs shall divide or transfer that which is adjudicated to them, impose servitude, incumbrance, bond, hypothecate, or other burden, not even if it be for a religious cause, nor pass it into mortmain.

Second. They may fence it, without prejudicing the paths, roads, and servitudes; they shall enjoy it freely and exclusively, destining it to the use or cultivation which suits them best; but within the space of one year at the furthest they shall construct a house, and it shall be inhabited.

Third. When the property shall be confirmed to them, they shall solicit of the respective judge that he give them judicial possession by virtue of this despatch, by which the boundaries shall be marked, on whose limits they shall place besides the landmarks some fruit trees, or wild ones of some utility.

Fourth. The land of which donation is made to them is of one square league, as the plan which is in the espediente explains. The judge who will give the possession will have it measured according to the ordinance, to show the boundaries, keeping the overplus which may result for the nation for convenient uses.

Fifth. If they contravene with these conditions they shall lose their right to the land, and it will be denounceable by another.

Consequently I order these presents shall serve them as a title, holding it as firm and valid, that it be registered in the book to

which it corresponds, and that it be delivered to the interested parties for their safety and other ends.

Given in Monterey, sixth of June, eighteen hundred and thirty-three.

(Signed) JOSÉ FIGUEROA.
(Signed) AUGUSTIN V. ZAMORANO, *Secretary.*

Registry has been taken in the book of titles for the adjudication of lands, folio eight, number eight, which is in the secretary's office under my charge.

Monterey, June tenth, eighteen hundred and thirty-three.

(Signed) ZAMORANO.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this case, No. 306, Maximo Martinez, for the place named "Cañada del Corte de Madera."

(Signed) GEO. FISHER, *Sec'y.*

I, George Fisher, secretary to the U. S. board of land commissioners, do hereby certify the foregoing to be a true and correct copy of a document marked "Translation of grant by José Figueroa, being marked H. J. T. No. 1," and annexed to the depo. of Wm. A. Richardson, before commissioner H. J. Thornton, and filed in office February 8, 1853, in case No. 36.

Witnes my hand, this 30th day of December, 1854.

GEO. FISHER, *Sec'y.*

Filed in office, Jan. 23, 1855.

GEO. FISHER, *Sec'y.*

B 2.

Jusgado Constitutional de San José Guadalupe, Año de 1836.

Espediente instruido para medir y dar posesion de un sitio de ganado mayor al ciud'o Macsimo Martinez del terreno conocido con el nombre.

De la "Cañada del Corte de Madera."

Juez el alcalde constitutional de dicho pueblo.

Assistencia: JOSÉ BERREYESA,
IGNACIO MARTINEZ.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por al aduana maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

Señor Alcalde Constitucional:

El ciud'o Macsimo Martinez ante V. como mas haya lugar en

derecho digo: que habiendoseme consedido por la ex'ma diputacion territorial, el terreno conocido con el nombre de la Cañada del Corte de Madera segun lo acredita el titulo que respectivamente acompana y diseno que le sigue, pido a V. se sirva darme la posesion juridica de el que es de un sitio como las formalidades de la ley pa. evitar todo perjuicio.

A. V. S. suplico se sirva proveer como pido por ser de justicia que imploro y juro lo necessario, &c.

S. José de Guadalupe, 13 de Febrero de 1836.

A ruego del interesado,

JOSÉ BERREYESA.

Por presentada esta peticion con los documentos que espresa citense a los colindantes y hayase informacion de identitad, vista de ojos, y reconocimiento de dichas tierras. El ciud'o José Ma. Alvisu, alcalde constitutional al pueblo S. José Guadalupe, actuando por receptoria con dos testigos de asistencia a falta de escribano. Publico asi lo proveyo, mando y firmó con los de mi assistencia.

JOSÉ MA. ALVISU.

Ass'a: JOSÉ BERREYESA,
YGNACIO MARTINEZ.

En el espresado pueblo a los quince dias del mismo mes y año el ciud'o alcalde constitutional con los de su asistencia para su proseder a la informacion de identidad que espresa el auto de su uso, hizo comparecer al ciud'o Luis Chaboya en su persona y conocemos vecino de este pueblo de oficio labrador, casado al cual se le recibio puramento que hizo por dios nuestro señor y la señal de la Santa Cruz por el que prometio decir verdad, y habiendolo sido sobre el conocim'to que tenga de las tierras y parages, terminos y linderos pertenecientes al rancho nombrado la Cañada del Corte de Madera, dijo que hace mas de veinte años que es vecino de este pueblo y sabe positivamente que las tierras por que se le preguntan han pertenecido al ciud'o Macsimo Martinez y tiene por linderos conocidos el Arroyo de S. Francisquito: con el Arroyo del Matadero, los cuales a visto y reconocido varias veces, y desde que las posee d'ho Martinez las ha labrado y cultivado pastando en ellas sus ganados y que para prueba de lo que tiene dicho, esta pronto ha ir a dichas tierras con el presente alcalde y señalarle los parages terrenos y linderos donde llegan, que el que llebo alli es la verdad por el juramento que tiene hecho en que se afirmo y ratifico, leida que le fue esta declaracion, diciendo ser de edad de cuarenta y cuatro años que las generales no le tocan y lo firmo con el presente alcalde y los de su assistencia.

JOSÉ MA. ALVISU.

Ass'a: JOSE BERREYESA,
YGNACIO MARTINEZ,
LUIS CHABOYA.

Ynmediatamente yo el mencionado alcalde con los de.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la aduana maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

Mi asistencia hize comparecer ante mi Juan Soto en su persona que conocemos vecino de esta jurisdicion de oficio labrador, casado al cual se le recibio juramento segun forma por el que prometio decir verdad y siendolo por el conocimiento de las tierras y parages terminos y linderos pertenecientes al rancho nombrado la Cañada del Corte de Madera, dijo que hace mas de diez años que es vecino de esta jurisdicion y sabe que las tierras pertenecientes al espresado rancho han sido poseidas por el ciud'o Macsimo Martinez y tiene por linderos conocidos el Arroyo de San Francisquito, hasta el Arroyo del Matadero los cuales ha visto y reconocido varias veces y que desde que las posee dicho Martinez las ha labrado y cultivado y pastado en ellas sus ganados y que para prueba y conocimiento de cuanto tiene dicho, esta pronto a hir a dichas tierras con el presente alcalde y señalarle los parages, terminos y linderos donde llegan, y que esto que lleba dicho es la verdad a cargo del juramento presentado en que se afirmo y ratifico leida que le fué esta declaracion, diciendo ser de edad de cuarenta y ocho años que las generales no le tocan y por no saber firmar hizo la señal de la Cruz y lo firmó el alcalde con los de mi asistencia.

JOSÉ MA. ALVISU.

Ass'a: JOSÉ BERREYESA,
YGN'O MARTINEZ.

Incontinente comparecio el ciud'o Francisco Palomares en su persona que conocemos, vecinos de esta jurisdicion, de oficio labrador, casado, al cual se le recibio juramento segun costumbre por el que prometio decir verdad y siendo preguntado por el conocimiento de las tierras y parages terminos y linderos pertenecientes al rancho nombrado la Cañada del Corte de Madera, dijo que hace mas de diez años que es vecino de este pueblo y sabe que las tierras pertenecientes al espresado rancho han sido poseidas por el ciud'o Macsimo Martinez y tiene por linderos conocidos dos arroyos, uno acia al N. y otro al S. Lomas bajas y sierra alta que corre de norte, á sur, las cuales ha sido y reconocido varias veces, y desde que las posee d'ho Martinez las ha labrado y pastado en ellas sus ganados y que p'a prueba de lo que y conocimiento de cuanto tiene

d'ho esta pronto á hir á d'has tierras con el presente alcalde y señalarle los parages, terminos, y linderos donde llegan, que lo que tiene dicho es la verdad á cargo del juramento prestado en que se afirmo y ratifico, leida que le fue esta exposicion, diciendo ser de edad de veinte y siete años y que las generales de la ley no le tocan; no firmando p'r no saber pero lo verifico el alcalde con los de su as'a.

Ass'a : JOSÉ BERREYESA.
MACSIMO MARTINEZ.

José M'a Alvisu.

En el espresado Pueblo en el mismo dia mes y año se libraron boletas de comparendo á los colindantes Padre Ministro de la Mision de St'a Clara y Doña Soledad Ortega.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

A. RAMIREZ.

Figueroa.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

Gutierrez.

Para que comparescan sus mayordomos en el rancho titulado la Cañada del Corte de Madera para que el dia diez y ocho del presente mes y enterados ambos de este auto contestaran de que asi lo ejecutaran y se dan por citados, firmandolo con el presente alcalde y los de su asistencia.

Ass'a: JOSÈ BERREYESA,
JUAN DE PRADO MESA,
MANUEL PEÑA.

José M'a Alvisu,
Ygnacio Martinez.

Estando en el campo en el parage que les llaman la Cañada del Corte de Madera, en diez y ocho de Febrero de mil ochocientos treinta y seis. Yo el alcalde constitucional actuando por receptoria con dos testigos de asistencia á falta de escribano publico, los testigos por mi examinados presente el dicho Macsimo Martinez cc. Juan Prado Mesa y Teodoro Flores ambos mayordomos de las partes circumvecinos, procedi á ver y reconocer las tierras de dicho rancho y para su mayor claridad iba á propuesto á caballo en compañia de todas las partes y testigos referidos, mandé á los susodichos me señalasen los parages, terminos y linderos de ellos, segun las señales que han declarado en sus disposiciones y en su conformidad guiaran à la parte del norte hasta llegar a una laguna

permanente a linea de unos peñascones del arroyo de San Francisquito de alli se procedio al reconocimiento y vista de ojos, acia al O. caminando por la orilla de dicho arroyo, hasta llegar a la parte de las lomas bajas y ser terminos y linderos de las espresadas tierras de la Cañada del Corte de Madera, desde dicho parage se continuo dicha, vista de ojos caminando acia al S. hasta llegar al arroyo del matadero termino y lindero de las susodichas tierras, y de alli se procedio el reconocimiento y visto de ojos, y acia al P. hasta llegar al rincon que hace la sierra alta por ultimo lindero delas mencionadas tierras cuyos parage. Yo el alcalde constitucional vi y reconoci con los de mi asistencia, testigos espresados y papeles presentados y cotejado dicho conocimiento con ellos halli ser cierto su identificacion de las mencionadas tierras segun y como declaran dichos testigos y por que conste lo pongo por diligencia y lo firmo con los de mi asistencia, y demas que supieron, doy fé.

YGNACIO MARTINEZ,
JUAN DE PRADO MESA.
MANUEL PEÑA.

JOSÉ M'A ALVISU,
Ass'a: JOSÉ BERREYESA.

En el mismo dia mes y año. Yo el alcalde constitucional digo que para proceder á las medidas contenidas en estos autos mande se notifique á d'ho ciud'o Macsimo Martinez, a que los medidores nombrados son los ciudadanos Dolores Pacheco y Manuel Peña printeligentes en materia de medidas y en su consequencia dijo lo oye y que combiene en d'ho nombramiento por lo cual mando d'ho alcalde se notifiquese a los espresados medidores nombrando el diez y ocho nueve.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

A. RAMIREZ.

FIGUEROA.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

Del corriente para proceder a las medidas de dichas tierras, y en consequencia mando se diese a saber a dichos medidores para que pongan, acepten y juren en debida forma, y para que conste lo firmo con los de mi asistencia.

JOSE MA. ALVISA.

Ass'a: JOSE BERREYESA.
YGNACIO MARTINEZ,
JUAN DE PRADO MESA,
MANUEL PENA.

En seguida se hizo saber a los interesados y medidores dia veinte del corriente, al parage nombrado la Cañada del Corte de Madera, para proceder a las medidas de dichas tierras é impuestas todos de este auto dijeron lo oyen y sedan por citados, firmando los que supieron, para constancia doy fé.

JOSE MA. ALVISU.

JOSE BERREYESA,
MANUEL PENA,
YGNACIO MARTINEZ,
JUAN DE PRADO MESA,
DOLORES PACHECO.

En el rancho titulado la Cañada del Corte de Madera a veinte y dos de Febrero de mil ochocientos treinta y seis, presente E. C. Macsimo Martinez, y circumvecino a dichas tierras hice comparecer ante mi y los de mi asistencia a los C's Dolores Pacheco y Manuel Peña medidores nombrados a los cuales mande alistar un cordel y midan cincuenta varas con vara de medir de cuatro palmos castellanos y con efecto los susodichos en mi presencia me dieron un cordel torcido y bien tirado con una vara Mexicana en todo forma hacen el numero de cincuenta varas la cual medida se hizo fiel y legalmente.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

Mente a vista creencia y paciencia del interesado y circumvecinos en cuya atencion mando se ponga por diligencia.

JOSE MA. ALVISU.

Ass'a: JOSE BERREYESA,
JUAN DE PRADO MESA,
MAN'L PENA,
YGNACIO MARTINEZ,
DOLORES PACHECO.

Estando en el campo y tierras pertenecientes al rancho de la Cañada del Corte de Madera, hoy veinte y dos de Febrero de mil ochocientos treinta y seis. Yo el alcalde constitucional del pueblo de S. José de Guadalupe, actuando por reseptoria con los testigos de asistencia a falta de escribano pueblo, presente el C. Dolores Pacheco y Manuel Peña medidores nombrados, mande prosediesen a la medida de un sitio de ganado mayor que toca y pertenece al ran-

cho de la Cañada del Corte de Madera, segun el titulo y diseño presentados en cuyo obecedimiento habiendo vuelto a medir y reconocer el cordel dieron principio a dicha medida desde el rincon de la sierra, que niera asia al N. caminando por este rumbo hasta llegar a una permanente ó linea de mas peñas cones del arroyo de San Francisquito, que dando este por lindero, desde alli se siguio la medida asia al O. por la orilla del mismo rumbo hasta donde rematar las lomas bajas que dando estas por lindero, con la mission de Santa Clara, desde este parage se tomo el rumbo asia el S. hasta el arroyo del Matadero que dando este igualmente por lindero de la susodicha mision: y no habiendose completado en este la legua se le ana dieron los diez y ocho cordeles asia el O. que es las ultimas lomas bajas, desde este parage se tomo el rumbo asia el sudueste abre besando algunas lomas hasta el rincon de la sierra, donde se comenzo a medir y se completo el sitio de ganado mayor; que se le concedio al repetido Martinez con la lomeria por aberla pedido al interesado y no perjudicar a nadie de manera que.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey de la Alta California, para los anos de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

El referido sitio de ganado mayor de que consta el rancho de la Cañada del Corte de Madera perteneciente al C. Macsimo Martinez forma un cuadro de veinte mil varas castellanas y regalado por dichos medidores declararon estar el repetido C. Macsimo Martinez enterado de las tierras que le corresponden a su rancho; segun el titulo del diseño que obra en la cabeza de este espediente; sin que se perjudicase a tercero; por lo cual arranco d'ho Martinez varia ramas y yerbas arroyandoles hacia los cuatros vientos, en señal de su legal y lejitima posecion, en tal estado mando al C. alcalde que para permanencia y claridad de los linderos que han espresados hisiese a su consta y mencion mas mojoneras de piedra y cal en altos de mas de una vara para que en todo tiempo conste se obserbe y guardan por terminos y linderos de sus tierras por los demas circumvecinos de ellas; y de haberse ejecutado dichas medidas quieta y pacificamente sin contradicion de persona alguna, lo pidio por testimonio, y yo el alcalde constitucional del pueblo de San José de Guadalupe actuando por receptoria con dos testigos de asistencia a falta escribano publico; lo doy de haber pasado como dicho es; y que las espresadas medidas han sido hechas a todo el leal saber y entender de los medidores segun depucieron, sin dolo, fraude y en-

gaño ni contra de ninguna persona y para mas seguridad ratificaron el juramento que tienen hecho, y lo firmaron con el repetido alcalde, los de su asistencia y los demas que supieron y se hallaron presentes.

JOSÉ MA. ALVISU.

Asistencia: JOSÉ BERREYESA,
YGNACIO MARTINEZ,
MANUEL PEÑA,
DOLORES PACHECO.

En virtud de hallarse concluidas estas diligencias conforme a la ordenanza y de la materia entreguese originales a la parte del C. Macsimo Martinez, con los documentos que presentó para los usos que le convengan El. C. José Maria Alvisu, alcalde constitucional del pueblo de San José de Guadalupe actuando por receptoria con dos testigos de asistencia a falta de escribano publico, asi lo proveyo, mando y firmo hoy veinte y tres de Febrero de mil ochocientos treinta y seis.

JOSÉ MA. ALVISU.

Ass'a: JOSÉ BERREYESA,
YGNACIO MARTINEZ.

I, George Fisher, secretary to the U. S. land commission to ascertain and settle private land claims in the State of California, hereby certify the foregoing to be a true and correct copy of a document in case No. 36, wherein Macsimo Martinez is the claimant against the United States for the place named "Cañada del Corte de Madera," now on file in this office.

In testimony whereof I have hereunto signed my name at office, at the city of San Francisco, Cal., this 2d day of January, A. D. 1855.

GEO. FISHER, *Sec'y.*

No. 36.

Macsimo Martinez.—"Cañada del Corte de Madera."

Exhibit No. 3 to deposition of Wm. A. Richardson, taken in No. 36.

H. J. T.

Filed in office Feb'y 8th, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Recorded in Record of Ev., vol. 6, pages 366 and 372.
Filed in office Jan. 23, 1855.

GEO. FISHER, *Sec'y.*

Translation of Possession, B 1.

Constitutional Justice's Court of San Jose de Gual. Year 1836.

Record of proceedings for measuring and giving possession of

one sitio de ganado mayor to the citizen Maximo Martinez, of the land known by the name of the Cañada del Corte de Madera.

Justice: The Constitutional Alcalde of said Pueblo. Jose Berreyesa and Ignacio Martinez, assistants.

Honorable Constitutional Alcalde:

I, the citizen Maximo Martinez, before Y. H., in the most just way say, that having been granted by the excellent territorial deputation, the land known by the name of Cañada del Corte de Madera, accredited by the title which I hereby respectfully annex, and the sketch which follows it, I ask you to be pleased to give me the juridical possession of the same, being one square league, with the formalities of law, in order to avoid all injury.

Therefore I pray you to be pleased to decree as I ask, because it is justice I implore, and I make the necessary oath, &c.

San Jose de Guadalupe, 13th of February, 1836.

At the request of the interested party.

JOSE BERREYESA.

This petition, with the documents thereon quoted, being presented, let the surrounding neighbors be cited, and let information of identity, ocular view, and recognizance be taken of said land.

The citizen Jose Maria Alvisa, constitutional alcalde of the pueblo of San Jose Gaudalupe, acting as judge ad interim, thus did decree, order and sign with his two attesting witnesses, for want of a notary public.

JOSE MARIA ALVISA.

Ass., Jose Berreyesa.
Ignacio Martinez.

In the said pueblo, on the 15th day of the same month and year, the citizen, constitutional alcalde, with his assistants, in order to proceed to the information of identity, which the decree directs, summoned the citizen Lewis Chaboya in person, whom we know, a resident of this pueblo, a husbandman by profession, married, to whom was administered an oath, which he made by God our Lord, and the sign of the Holy Cross, on which promised to speak truth, and *up* the knowledge he may have of the land and of its locality, borders and boundaries, appertaining to the rancho called Cañada del Corte de Madera. He said, that it is more than twenty years that he is a resident of this pueblo, and he knows positively that the land in question has belonged to the citizen Maximo Martinez, and has for known boundaries the arroyo de Francisquito, the arroyo del Matadero, which he has seen and recognised various times, and since said Martinez possesses it he has labored and cultivated it, his cattle pasturing thereon; and to prove what he has said, he is ready to go to the said land with the present alcalde and designate to him the location, the land and the boundaries,

and their extent; that which he has said is the truth on the oath he has made, which he affirmed and ratified; this declaration being read to him, he said that he was 44 years old, that the disabilities of the law don't affect him, and he signed with the present alcalde and his witnesses.

JOSE M. ALVISA.

Ass., JOSE BERREYESA.
LUIS CHABOYA,
IGO. MARTINEZ.

Immediately I, the mentioned alcalde, with my assistants, summoned Juan Soto in person, whom we know, resident of this jurisdiction, a husbandman by profession, married, to whom was administered oath according to form, on which he promised to speak truth, and on his knowledge of the land and its location, extent and boundaries, appertaining to the rancho called la Cañada del Corte de Madera, he said, that it is more than ten years since he became a resident of this jurisdiction, and that he knows that the land belonging to the said rancho has been possessed by the citizen Maximo Martinez, and has for its known boundaries the arroyo de San Francisquito to the arroyo del Matadero, which he has seen and recognised at various times, and since said Martinez possesses it he has cultivated and pastured his cattle on it, and as proof of the knowledge of what he has said he is ready to go to said land with the present alcalde and to designate to him the location, extent and boundaries to them, and that what he has said is the truth under oath which he has taken, affirmed and ratified; this declaration having been read to him, saying that he was forty-eight years old; that the disabilities of the law don't affect him, and not knowing how to sign he made the sign of the cross, and the alcalde signed with his witnesses.

JOSE MA. ALVISA.

Ass., JOSE BERREYESA.
IGNACIO MARTINEZ.

In continuance the citizen Francisco Palomares personally appeared, whom we know to be a resident of this jurisdiction, a husbandman by profession, married, to whom the customary oath was administered, and under which he promised to speak the truth; and being questioned as to his knowledge he had of the land, the location, extent and boundaries appertaining to the rancho called la Cañada de Corte de Madera, he said that it is more than ten years that he is a resident of this Pueblo, and knows that the land belonging to said rancho has been possessed by the citizen Maximo Martinez, and it has for its known boundaries two creeks, one towards the north and one to the south, low hills, and a high mountain which runs from north to south, which he has seen and recognised at various times; and since said Martinez has cultivated

it, and pastured his cattle on it, and as proof of the knowledge of which, he has said he is ready to go to said land with the present alcalde, and designate to him its location, extent and boundaries, as far as they extend; that what he has said is the truth on the oath taken, which he has affirmed, this statement being read to him, saying that he was 27 years old, and that the disabilities of the law don't affect him, not signing because he did not know how, but the alcalde and his witnesses did so.

JOSÉ MA. ALVISA.

IGNACIO MARTINEZ,
JOSÉ BERREYESA.

In the same pueblo, on the same day, month and year, was issued summons to the bordering land-owners, father minister of the mission of Santa Clara and Dn. Soledad Ortega, that their mayordomo should appear on the rancho named la Cañada del Corte de Madera, on the 18th of the present month; and both being apprized of this decree, answered, that they should comply with it, and they considered themselves cited, signing this with the present alcalde and his witnesses.

JOSÉ MA. ALVISA.

Witnesses: JOSÉ BERREYESA,
IGNACIO MARTINEZ,
JUAN DE PRADA MESA,
MANUEL PEÑA.

Being in the field in the place called la Cañada del Corte de Madera, on the 18th day of February, 1836, I, the constitutional alcalde, acting as judge ad interim, with two assisting witnesses for want of a notary public, the witnesses by me examined the said Maximo Martinez, the citizen Juan Prado Mesa and Theodora Flores, both mayordomos of the adjoining neighbors being present, I proceeded to view and reconnoitre the land of the said rancho, and for greater accuracy on horseback, in company of all the parties and said witnesses. I ordered the aforesaid that they should show me the location, extent and boundaries of it according to the marks they had declared in their depositions, and in conformity thereto they guided me towards the north until arriving to a permanent lagoon in the line of some rocks of the creek of San Francesquito, from whence the reconnoissance and ocular survey was proceeded with towards the west, travelling by the margin of said creek until arriving at the point of the low hills, and being the extent and boundaries of said land of la Cañada del Corte de Madera; from said place continued the said ocular travelling towards the south until arriving to the arroyo del Madero, (creek of slaughter place,) extent and boundary of the above named land, and from whence proceeded the reconnoissance and ocular survey towards the southeast, until arriving at the corner which makes the Sierra Alta, the

last boundary of the said land, which location I, the constitutional alcalde, saw and recognised with my witnesses, with the said witnesses and papers present comparing said reconnoissance, and with them I found a certain identification of the said land in conformity with and according to the declarations of the said witnesses; and in testimony whereof, I sign with my witnesses, those others who knew how, to which I attest.

JOSÉ M. ALVISA.

Ass.: José Berreyesa,
Ignacio Martinez,
Juan de Prado Mesa,
Manuel Peña.

On the same day, month, and year, I, the constitutional alcade, say: that in order to proceed to the measurements contained in those decrees, I ordered that the said citizen Maximo Martinez should be notified that the appointed measurers are the citizens Dolores Pacheco and Manuel Peña, skilful in matters of measurement; and in consequence said he heard it, and that he acquiesced said appointment; therefore, the said alcalde ordered said measurers to be notified, appointing the 19th day instant to proceed to the measurements of said land; and in consequence, I ordered said measurers to be notified of it, that they may appear, accept, and take the oath in due form; and in faith whereof I signed with my witnesses.

JOSÉ MA. ALVISA.

Wit.: José Berreyesa,
Juan de Pra. Mesa,
Ignacio Martinez,
Manuel Peña.

Immediately the citizens Dolores Pacheco and Manuel Peña, appointed measurers, were summoned and made acquainted with the above decree. They said they accept the above appointment, and in consequence thereof they swore by the Lord our God and the sign of the Holy Cross, to fulfil said appointment well and faithfully, to the best of their knowledge and understanding, and will make said measurement faithfully and legally, as is their obligation, without fraud or deception against any of the parties. This they answered and signed, which I attest.

JOSE M. ALVISA.

Wit.: José Berreyesa,
Juan de Prado Mesa,
Manuel Peña,
Ignacio Martinez,
Dolores Pacheco.

In continuance thereof, the interested parties and measurers were informed on the 20th instant, at the place called la Cañada del Corte de Madera, to proceed to the measurement of said land.

And all being apprized of this decree, they said they heard it and considered themselves cited, those who could, signing. In testimony of which I testify.

JOSÉ M. ALVISA.

Wit.: José Berreyesa,
Juan de Prado Mesa,
Dolores Pacheco,
Ignacio Martinez,
Manuel Peña.

In the rancho called la Cañada del Corte de Madera, on the 22d February, 1836, the citizen Maximo Martinez and the neighbors surrounding said land being present, I caused the citizens Dolores Pacheco and Manuel Peña, appointed measurers, to appear before me and my witnesses, whom I ordered to prepare a line, and to measure fifty varas with a vara measure of four Castilian polamaras, and to this effect the above-named, in my presence, measured a twisted line and well stretched, with a Mexican vara, the whole of it making the number of fifty varas, which measurement was made faithfully and legally, in sight, belief, and patience of the interested party and the surrounding neighbors; in attestation of which I ordered them to subjoin their signatures.

JOSÉ M. ALVISA.

Ass.: José Berreyesa,
Juan de Prada Mesa,
Ignacio Martinez,
Manuel Peña,
Dolores Pacheco.

Being in the field and the land belonging to the rancho of la Cañada del Corte de Madera, to-day, the 22d of February, 1836, I, the constitutional alcalde of the pueblo of S. José de Gaudalupe, acting as judge ad interim, with the attesting witnesses, for want of a notary public, the citizens Dolores Pacheco and Manuel Peña, appointed measurers, being present, I ordered them to proceed to the measurement of square league, (sitio de ganado mayor,) which joins and appertains to the rancho la Cañada del Corte de Madera, according to the presented title and sketch; in obedience to which, having again measured and recognised the line, they commenced the said measurement from the point of the mountain (Rincon de Sierra) which looks towards the north, following this course until arriving to a permanent lagoon, in a line with some rocks of the arroyo de San Francesquito, leaving this for boundary.

From thence the measurement was continued towards the west along the margin of said arroyo until the termination of the low hills. Leaving these as boundaries, with the mission of Santa Clara, from this place took the course towards the south unto the

arroyo del Madera. Leaving this likewise, as boundary of the above-named mission, and not having completed here the league, they added eighteen cordels towards the west, which are the last low hills to the point of the Sierra, where we commenced to measure, and the square league was completed, which is granted to the named Martinez, with the high land, the interested party having asked for it, and not to prejudice anybody in such a manner that the said sitio de ganado mayor, which makes the rancho of la Cañada de Corte de Madera, belonging to the citizen Maximo Martinez, forms a square of twenty thousand Castilian varas; and regulated by said measures, they declared the said citizen Maximo Martinez to be apprized of the land which appertains to his rancho, according to the title deed and sketch which is annexed at the head of this record of proceedings, without prejudicing a third party.

Wherefore, the said Martinez pulled off sundry twigs and grass, casting them towards the four cardinal points, as a sign of his legal and legitimate possession. At such stage of the proceedings, the alcalde ordered, that for the sake of permanence and clearness of the boundaries running as aforesaid, he should cause to be made, at his own expense, some landmarks of stone and lime, more than one vara in height, in order that in all time they may appear, be observed and respected as metes and bounds of his lands by the other surrounding neighbors thereof; and having executed said measurements quietly and peaceably, without contradiction of any person, he solicited testimony thereof, and I, the constitutional alcalde of the pueblo of San José de Gaudalupe, acting as judge ad interim, with two assisting witnesses, for want of a notary public, give it as a fact as stated, and that the said measurements have been made to the best of the measurers' ability and understanding, as they deposed, without imposition, fraud and deceit against any person. And for greater security, they notified the oath which they have made, and signed it with the said alcalde, his attesting witnesses and others, who were present and knew how to write.

JOSÉ M. ALVISA.

Wit.: José Berreyesa,
Dolores Pacheco,
Ignacio Martinez,
Manuel Peña.

In consequence of these proceedings being concluded according to the ordinance upon the matter, let these original proceedings be delivered to the citizen Maximo Martinez, with the documents he presented, for the purposes that may suit him. The citizen José Maria Alvisa, constitutional alcalde of the pueblo of San José Gaudalupe, acting as judge ad interim, with the two attesting witnesses, for want of a notary public, thus decreed, ordered, and signed, this 23d day Feb., 1836.

JOSÉ M. ALVISA.

Wit.: José Berreyesa,
Ignacio Martinez.

I certify the foregoing to be a true and correct amended translation from the original Spanish document on file in this office, in case No. 36.

(Signed) GEORGE FISHER, *Sec'y.*
MAXIMO MARTINEZ.

I, George Fisher, secretary to the U. S. board of land commissioners, do hereby certify the foregoing to be a true and correct copy of a document marked "Of Doc. H. J. T., No. 3, to the depo. of Wm. A. Richardson," on file in case No. 36, Maximo Martinez, for the place named "La Cañada del Corte de Madera."

Witness my hand, this 2d day of January, 1855.

GEO. FISHER, *Sec'y.*

Filed in office Jan. 23d, 1855.

GEO. FISHER, *Sec'y.*

Affidavit of Peralta.

Board of United States Land Commissioners for California.

DOMINGO PERALTA
vs.
THE UNITED STATES.

Case No. 306, for part of Cañada del Corte de Madera.

COUNTY OF ALAMEDA, *ss.*

Domingo Peralta, being duly sworn, deposes and says: That he is the claimant in this case; that the grant of the land known as "Cañada del Corte de Madera" was made to him and Maximo Martinez conjointly; that he has never sold or conveyed his half of the same, or any part thereof, or interest therein, except a small portion which was sold by him since the filing of this claim before this board; and that, from the date of said grant, he has been and still is the claimant and owner, except as above stated, of the undivided moiety of said rancho. And further this deponent saith not.

JOSÉ DOMINGO PERALTA.

Subscribed and sworn to this 7th day of February, 1855, before me.

[SEAL.] A. S. HURLBUT,
Notary Public.

This affidavit may be filed and considered in this case, with the same force and effect as if it had been sworn to before a commissioner of this board, and filed before the above entitled case was submitted.

J. H. McKUNE,
U. S. Law Agent.

Filed in office Feb. 9, 1855.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 11, p. 360.

GEO. FISHER, *Sec'y.*

Stipulation.

In the Board of United States Land Commissioners.

DOMINGO PERALTA
vs.
THE UNITED STATES.

No. 306, for a part of "Cañada del Corte de Madera."

It is stipulated by the parties hereto, that the copies of the five certain documents filed in case 36, Maximo Martinez, claimant, and mentioned in a stipulation heretofore filed in this case, may be filed herein, with the like effect as if filed before the submission of said case—said copies being severally marked B 1, B 2, B 3, B 4, and B 5.

It is further stipulated that said copy marked B 1, of Doc. H. J. T. No. 3, to the deposition of Wm. A. Richardson, judicial possession, being a translation of the original record of judicial possession filed in said case No. 36, and marked Exhibit No. 3 to deposition of Wm. A. Richardson, taken in No. 36, H. J. T., be amended by the secretary of the board, so as to correspond to its Spanish original.

And it is further stipulated, that a traced copy of the original espediente for the land claimed in this case, marked H. Y., certified by the late surveyor general to be a correct copy of its original, contained among the archives in his office, together with the translation thereof, may be filed by the claimant, and considered by the board with the same force and effect as if they had been filed before the submission of this case.

J. H. McKUNE,
U. S. Law Agent.

H. W. CARPENTIER,
Atty. for Claimant.

Filed in office Jan. 23, 1855.

GEO. FISHER, *Sec'y.*

Recorded in journal, vol. 4, page 185.

GEO. FISHER, *Sec'y.*

Stipulation.

Board of U. S. Land Commissioners for the State of California.

DOMINGO PERALTA
vs.
THE UNITED STATES. } No. 306.

It is agreed between the law agent on the part of the United States and the counsel for the claimant that the following documents now on file in case No. 36 of Maximo Martinez vs. The United States may be used and considered in case No. 306, Domingo Peralta claimant, with the same force and effect as if originally filed in the said last mentioned case.

1. Document marked Map ann'xd to the deposition of Wm. A. Richardson before Com'r Thornton.

2. Document marked Exhibit No. 3 to deposition of Wm. A. Richardson in No. 36. H. J. T.

3. Doc't marked Doc. H. J. T. No. annexed to the deposition of Wm. A. Richardson before Com. H. J. Thornton.

4. Doc't marked Of. Doc. H. J. T. No. 3, to the depo. of Wm. A. Richardson, judicial possession. Translation.

5. Doc. marked Translation of grant by José Figueroa, being marked H. J. T. No. 1, and annexed to the depo. of Wm. A. Richardson, before Com. H. J. Thornton, and filed in office Feb. 8, 1853. Copies of said documents to be furnished in case No. 306 by claimant.

June 10, 1854.

J. H. McKUNE,
Law Agent.
H. W. CARPENTIER,
For Claimant.

Filed in office June 10, 1854.

GEO. FISHER, *Sec'y.*

Recorded in journal, vol. 3, pages 678, 679.

GEO. FISHER, *Sec'y.*

Motion.

U. S. LAND COMMISSION, *August* 14, 1855.

Motion is hereby made before the board of U. S. land commissioners that the case No. 306, Domingo Peralta claimant, be restored to the docket, that further evidence may be taken and additional documents be filed by both parties to the same.

LOUIS BLANDING,
Asso. Law Agent.

Filed in office Aug. 14, 1855.

GEO. FISHER, *Sec'y.*

Affidavit of Asso. Law Agent.

Louis Blanding, associate law agent, being duly sworn, deposes and says, that the claim of *Mexico* Martinez, No. 36, for the rancho called Cañada del Corte de Madera, containing one square league, was prepared for submission, and was decided as valid, and had passed from this commission to the U. S. district court for adjudication a long time before he became connected with the commission as its associate law agent.

That he was in no way called to investigate the same, and therefore had no knowledge of the papers that constituted the case in the said claim, nor what connection the said claim might have with any other before the board.

That he has recently become acquainted with the fact, of which he had nó knowledge before, that the papers in the said claim have

a material bearing upon the claim of Domingo Peralta, No. 306, for an undivided half part of the same rancho, and which has been submitted for decision.

That he had no opportunity of ascertaining this fact, until recently. As the law agent, Mr. McKune has had exclusive control and management of this claim in its preparation; so much so that the affiant has not seen the papers in the case until quite recently, and after they had passed into the hands of the board for adjudication.

That the law agent stipulated with the claimant's counsel in No. 306 for the admission in evidence in the said case of certain depositions and documents on file in case No. 36.

That, by some mistake or oversight in the press of business, the document on file in No. 36 marked No. 1, annexed to the deposition of José Abrego, and purporting to be a certificate of relinquishment and transfer by Domingo Peralta of his entire interest in the said rancho, was omitted among the documents which were admitted by stipulation and filed as evidence in case No. 306.

That the said document is material and necessary, in the judgment of this affiant, to a correct decision in the case No. 306, now bofore the board for adjudication, and that the same cannot be decided with justice to the rights of the U. S., as defendants in the case, unless the said document is admitted in evidence, or the case be restored to the docket and opened for the taking of further depositions, and the filing of additional documents.

LOUIS BLANDING.

Sworn and subscribed before me Aug. 14, 1855.

R. AUG. THOMPSON, *Com'r.*

Filed in office Aug. 14, 1855.

GEO. FISHER, *Sec'y.*

Affidavit of H. W. Carpentier.

Board of U. S. Land Comm'rs.

DOMINGO PERALTA vs. THE UNITED STATES. } 306.

Horace W. Carpentier, attorney for the claimant in the above entitled case, being duly sworn, says, that before the said case was submitted to this board this deponent called upon the U. S. law agent, J. H. McKune, esq., and requested him to sign a stipulation that all the depositions and documents taken or on file in case No. 36 of Maximo Martinez might be considered in evidence in the determination of this case with like effect as if originally taken and filed herein, which the said law agent, for reasons best known to himself, declined and refused to do.

That the said law agent finally consented to stipulate for the admission of certain papers on file in said case, No. 36, to be spe-

cifically set forth and described in the agreement, on condition that copies thereof should be furnished by this deponent and filed in this case; which was accordingly done.

That said case of Maximo Martinez has already been submitted on appeal in the U. S. district court, and is held under advisement under a suggestion from this affiant, in order that a transcript of the papers in this case, immediately upon its decision by this board, may be taken to said court by consent of parties, and that the whole matter may there be decided at once upon its merits.

That, as this deponent is informed by his client, the claimant in this case, and believes, the document referred to in the affidavit of the associate law agent, this day filed herein, and described as document No. 1, annexed to the deposition of Jose Abrigo, is false and fraudulent, and that this affiant is informed and believes, on the representations of his said client, that he will be able before the said district court to prove said document to be fraudulent, as aforesaid.

That said document, as this deponent believes, is not necessary to a due and just determination of this case, but that as this case rests for its confirmation upon the original grant, (a copy of which is filed herein,) and as such grant has already been declared valid by this board, by its decision in said case No. 36, by which the ownership of the land claimed is decreed, without prejudice to third parties, to be in private persons and not in the United States, a denial of the motion made herein can in no wise prejudice the rights of the United States or operate unjustly.

H. W. CARPENTIER.

Subscribed and sworn to before me, Aug. 14, 1855.

R. AUG. THOMPSON, *Com'r.*,

Filed in office, Aug. 14, 1855.

GEO. FISHER, *Sec.*

Deposition of Juan B. Alvarado.

306, U. S.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *August* 31, 1855.

This day came before me, Alpheus Felch, com'r, Juan B. Alvarado, a witness on behalf of the United States, in case No. 306 on the docket of the U. S. land commission, &c., &c., who, being duly sworn, testified in Spanish, which was interpreted by the interpreter to the board, as follows:

Mr. Carpentier is present as counsel for claimant.

Questions by the U. S. Associate Law Agent.

1st question. What is your name, age, and place of residence?

Answer. My name is Juan B. Alvarado, my age 46 years, and I reside in Contra Costa county, California.

2d question. Look at the document now shown you marked "Doc. No. 1," annexed to the depo. of Jose Abrego, taken and filed in case No. 36 on the docket of this commission and herein referred to, and state if you know in whose handwriting the body of said document is, and whether the signature of Domingo Peralta thereto is genuine or not; if yea, how do you know it?

Answer. I have examined the said document and find the body thereof to be in the handwriting of Salvio Pacheco, and the said signature of Domingo Peralta thereto is his genuine signature, with which I am well acquainted, and I have often seen him write and have recently received letters from him.

Mr. Carpentier objects to the foregoing question and answer.

Cross-examined by Mr. Carpentier.

1st question. Do you speak of the genuineness of Domingo Peralta's signature by any other means than a general recollection of his handwriting?

Answer. I call it genuine because it has, to me, every appearance of the handwriting usually used by the said Peralta, and this signature is similar to sundry others I have seen of the same person.

JUAN B. ALVARADO.

Subscribed and sworn to before me, this 31st day of Aug., A. D. 1855.

ALPHEUS FELCH, *Com'r.*

Filed in office, Aug. 31, 1855.

GEO. FISHER, *Sec'y.*

Opinion of Board by Com. Felch.

DOMINGO PERALTA
vs.
THE UNITED STATES.

For one undivided half of the place called Cañada del Corte de Madera, in Santa Clara county, containing one square league of land.

The claimant bases his right to an undivided half of the rancho named on a grant made to him and one Maximo Martinez, jointly, by Governor Figueroa, on the 10th day of June, 1833. This grant is given in evidence, and in connection with the other proof on the part of the petitioner, is sufficient to establish prima facie the rights claimed by him.

But testimony is introduced on the part of the government which shows that, on the 12th day of May, 1834, the present claimant ceded by written instrument all his interest in the pre-

mises to his co-tenant Maximo Martinez. Having thus become the sole owner of the premises, Martinez obtained in his own name the juridical possession of the place from the proper authorities on the 22d of February, 1836, and has subsequently obtained from this commission a decree confirming to him the entire premises.

The proof is clear that Martinez became the owner from the time of the conveyance from Peralta to him of the interest of the latter under the grant made to them jointly, and that the entire premises were properly confirmed to said Martinez. (See case No. 26.) The petitioner has, therefore, no subsisting interest in the property, and his claim must be rejected.

Rejected.

Filed in office Oct. 2, 1855.

GEO. FISHER, *Sec'y.*

Decree.

DOMINGO PERALTA vs. THE UNITED STATES. } 306.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of said petitioner is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
Commissioners.

Filed in office Oct. 2d, 1855.

GEO. FISHER, *Sec'y.*

Order.

And it appearing to the satisfaction of the board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and decision in this case, and the papers and evidence upon which the same are founded, be made out and duly certified by the secretary—one of which shall be filed with the clerk of the United States district court for the northern judicial district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventy-eight pages, numbered from 1 to 78, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of

the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 306 on the docket of the said board, wherein Domingo Peralta is the claimant against the United States, for the place known by the name of Cañada del Corte de Madera.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty-sixth day of January, A. D. 1856, and of the independence of the United States of America the eightieth.

GEO. FISHER, *Sec.*

Endorsed: Filed January 30th, 1856.

JOHN A. MONROE, *Clerk.*

Notice of intention to prosecute Appeal.

United States District Court for the northern district of California.

DOMINGO PERALTA, Appellant,
vs.
THE UNITED STATES, Appellees.

Notice of intention to prosecute the appeal from the decision of the Board of U. S. Land Commissioners.

Domingo Peralta, the claimant of the undivided one-half of the rancho of the "Cañada del Corte de Madera," situated in the county of Santa Clara, and in the northern district of California, hereby gives notice of his intention to prosecute an appeal from the decision of the board of United States land commissioners, rendered in his claim for the said land, which was presented by him to the said board of commissioners, and by them rejected; his claim being that which was numbered on the docket of said board of commissioners as No. 306, the transcript whereof, as filed in the clerk's office of this court, is numbered 395.

HORACE W. CARPIENTIER,
Attorney for Appellant.

Endorsed: Filed July 23d, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS.

Petition on Appeal.

United States District Court for the northern district of California.

DOMINGO PERALTA, Appellant,
vs.
THE UNITED STATES, Appellees.

Petition of the appellant praying the Court to review the decision of the U. S. Land Commissioners.

Your petitioner, Domingo Peralta, respectfully shows unto this honorable court, that, in December, 1832, your petitioner, together

with one Maximo Martinez, applied to the proper authorities for a grant in temporary possession of the place or rancho called "Cañada del Corte de Madera," situated in the territory of Upper California, in the jurisdiction of San José Guadalupe, and in the now county of Santa Clara, in the State of California, which petition was granted by an order dated Dec'r 19, 1832, by Augustin V. Zamarano, then exercising the powers of political chief ad interim in the department of California, with the condition that the petitioners should present their petition anew so soon as the political chief should arrive in the Territory. That they entered into the possession and occupancy of said land under said order, and continued to occupy and cultivate the same continuously to the present time. That afterwards they presented their petition anew to the governor for a final grant in full ownership of said land; and that, on the 18th day of May, 1833, Jose Figueroa, then governer and political chief of California, by virtue of authority in him vested, and in due conformity to the requirements of the laws in this matter, granted to the said Domingo Peralta and Maximo Martinez, in equal undivided parts, the aforesaid tract of land, with the description and the boundaries mentioned in the grant. That, on the 17th day of May, 1834, the said grant was duly approved by the most excellent territorial deputation of Upper California.

That, on the 10th of June, 1834, a document of final title was issued by the aforesaid governor of California, and delivered to the said Domingo Peralta and Maximo Martinez, whereby their title to the said land was made definitively valid, and wherein the land granted was declared to be to the extent of one square league, more or less, according to the boundaries therein mentioned, and as shown in the map which was referred to in the said final title, and was attached to the expediente.

Your petitioner further shows that the said grantees, under the aforesaid permission of temporary occupation, entered into the occupancy and possession of the said land, and were in possession of the same from that time until the said final title was issued to them, and that they have continued thereafter to the present time in possession of the said land, and are now in the possession thereof.

That all the conditions and requirements of the said grant were faithfully performed and complied with by the said grantees; and that the said rancho is situated in the now northern district of California, and wholly within the jurisdiction of this court.

Your petitioner further shows, that on the 14th day of August, A. D. 1852, he presented his claim for the said undivided moiety of the said land before the United States land commissioners appointed under the act of Congress passed on the 3d of March, 1851, entitled "An act to ascertain and settle private land claims in the

State of California," when sitting as a board, and prayed the said board to confirm the same.

That, on the 2d day of October, 1855, the said board of commissioners decided upon the validity of your petitioner's claim, and rejected it, which decision your petitioner avers was unjust and a denial of rights acquired and held in good faith by your petitioner.

Your petitioner, therefore, prays that the transcript of the record and report of the board of commissioners on the claim presented to them as aforesaid, and of the documentary evidence and testimony of the witnesses on which it was founded, which is filed with the clerk of this court, as directed by the 12th section of the act of Congress, passed on the 31st of August, 1852, entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year ending the 13th of June, 1853, and for other purposes," may be held and considered as a part of his petition; and your petitioner, appealing from the said decision of the said board of commissioners, presents this his petition, and prays this honorable court to review the said decision of the said board of commissioners, and to decide anew upon the validity of his said claim, and to confirm the same.

H. W. CARPENTIER,
Attorney for the Appellant.

Endorsed: Filed July 29th, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Answer.

In the District Court of the United States for the northern district of California.

THE UNITED STATES ads. DOMINGO PERALTA. } D. C. 395.—L. C. 306.

The United States, by their attorney, deny the validity of the title set out in the petition of the appellant, and pray that the decision of the U. S. land commission be affirmed, and that the said title be decreed invalid.

San Francisco, February 12th, 1857.

WM. BLANDING,
U. S. Att'y.

Endorsed: Filed February 12th, 1857.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Relinquishment of Domingo Peralta.

Certifico qe. la propiedad y derecho que tengo en la solicitud del paraje nombrado la Cañada del Corte de Madera qe. en huricon del cecino Macsimo Martinez se hiso ago dejacion de todo eya retiran-

3743

domecon todoz mij mueblez al citio demi padre y sediendorelor al d'so individuo y qe. lo goze en sota propiedad gmande conio solo diceño y pa. loz jines qe. combenga le doy el presente docum'to en el pueblo de S. José Guadalupe na 12 de Mayo de 1834.

DOMINGO PERALTA.

Translation.

Translation.

I certify that the property and right which I have in the solicitation of the place called the Cañada del Corte de Madera, which, jointly with the neighbor Macsimo Martinez, I made, I have and hereby do relinquish all of it, retiring with all my goods to the residence of my father, and delivering it to the said individual, that he may alone enjoy the property thereof, and command as sole owner and for the purposes which may suit him; I give him the present document in the pueblo of San José Gaudalupe, 12th of May, 1834.

(Signed) DOMINGO PERALTA.

I certify the foregoing to be a true and correct translation of the annexed Spanish document on file in this office, in case No. 36, Macsimo Martinez.

GEO. FISHER, *Sec'y.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and, as such, having on file in my office and in my charge and custody the records and papers of the late board of United States commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the two preceding and hereunto annexed pages of tracing paper, numbered from one to two, inclusive, exhibit a true and accurate copy of a document endorsed "No. 36, Macsimo Martinez—Cañada del Corte de Madera—Doc. No. 1, annexed to the deposition of José Abrego, taken before Com. H. J. Thornton—Filed in office Dec. 28, 1852—Geo. Fisher, sec'y—Recorded in Record of Evidence, vol. 6, pages 363 and 364—Geo. Fisher, sec'y—Exhibited in the deposition of J. B. Alvarado; taken and filed in case No. 306, August 31, 1855," and now on file in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this seventeenth day of April, 1857.

JOHN C. HAYS,
U. S. Sur. Gen'l for California.

Endorsed: Filed April 18, 1857.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

1844.

Certified Document from U. S. Surveyor Gen's office.

Espediente promovido por Don Macsimo Martinez en pretencion del parage nombrado Cañada del Corte de Madera.

366.

Sello Cuarto—Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterrey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[SELLO.]

Ex'mo S'or Gobernador:

Macsimo Martinez natural de este departam'to, y recidente en el pueblo S. Jose Guadalupe ante la justificacion de V. E. y como mas halla lugar en dr'ho digo; que en el año de 1833, se me consedir, por el gob'no de este departamento en compañia de D. Domingo Peralta, un sitio de ganado mayor conocido con el nombre de la Cañada del Corte de Madera, en la sierra que corre para Sta. Cruz y nacim'to del arroyo llamado S. Francisquito, y habiendome sedido el S'or Peralta en 19 de Mayo de 1834, su dr'ho al mencionado terreno, como lo acredito por el docum'to que debidam'te acompaño y por el cual se me dio posecion juridica en 23 de Febrero, de 1836.

Mas teniendo yo una creada familio y no serme para su subsistencia suficiente este fregueño terreno que en la actualidad posio, suplico a V. E. se digne en atencion a lo que llebo espuesto, concederme dos sitios mas que se hallan valdios junto a mi referido terreno como se ve en el diseno que acompaño, lin dando por el norte, con el rancho de Da. Soledad Ortega, por oriente, con el de De Jose Peña, por el Poniente con Da. E. encarnacion Valencio, y por el Sur, con el Yndigma Gorgonio, se me este endacen solo titulo de tres sitios de ganado mayor en solo mi derecho.

P. F. A. V. E. pido se digne provir como llebo dicho en lo que recibire gracia y justicia, jurando no ser de malicia y lo necesario, &c.

Publo de S. Jose Guadalupe, Marzo 21, de 1844.

MACSIMO MARTINEZ.

MONTERREY, *M'zo de* 22, *de* 1844.

Ynfl. et l. s'rio del despacho tomado otros, ú lo S. exe. necesario.

MICHELT'A.

Como dispone el ex'mo s'or pase esta instancia al s'or alcalde 1o del pueblo de San Jose, para que informe sobre su contenido, pro-

via estacion de los respetivos colindantes, y diga todo cuanto crea conveniente.

Monterey, Marzo 29, de 1844. MAN'L JIMENO.

En atencion al superior decreto de 29 del pprov. Marzo y la orden del s'or secretario del despacho, q'e con la misma f'ha, se me para digo q'e el interesado en la presedente instancia, tiene todo, los acquisitos q'e confure la ley, para ser agranado con el terreno q'e solisita, tanto p'r su modo de viver conocido y honesto, como p'r sus servisios hechos a la nacion. Mas tendia q'e sujetarse a los linderos del rancho del finado D'n Antonio Buelna, escuarto puedo p'r hir parte informar a serca de esta solisitud.

Pueblo de S. Jose, Abril 10, de 1844.

ANTONIO MA. PICO.

Ex'mo S'or Gobernador:

El terreno que solicita el S'or Martinez, segun demuestra el diceno respectivo, parese que esta baldio y en estado de adjudicarsele, en atencion a sus servicias que presto en la comra de las armas, sugetandose a los linderos del finado Buelna, mas V. E. con da a constumbrado tino resolvera lo que fuese se da agrado.

Monterey, Abril 27, de 1844.

MAN'L JIMENO.

MONTERREY, *Ab'l* 27, *de* 1844.

Conf'l espidome el titulo.

MICHELT'A.

MONTEREY, 27 *de Abril, de* 1844.

Vista la peticion con que da principio este espediente los informes que presadan con todo la demas, que se testro presente y ver combien de conformidad con las leyes y reglamentos de la materia decleus a alciudadano Maximo Martinez dueno del parage nombrado Cañada del Corte de Madera con los linderos que demuestras el titulo, y en estencion de tres sitios de ganado mayor que forma todo el terreno. El E. S. gob'r asi lo mando decreto y firmo doy fee.

Certifico que la propiedad y derecho que tengo en la solisitud del paraje nombrado la Cañada del Corte de Madera; que en lenion del vicino Maximo Martinez se hi so: hago dejacion de toda ella con todos mis muebles, al sitio de mo padre y sediendole al d'ho individuo y que lo gore en sola propiedad y mande como solo dueño y para los fines que comengan le doy el presente documento en el pueblo de S. José de Guadalupe a 19 de Mayo, de 1834.

Es copia de su original sacada por la s'ria de gob'no hoy veinte y nueve de Abril de mil ochocientos cuarenta y cuatro.

MAN'L JIMENO.

Sello Tercero—Dos Reales.

Habilitado provicionalmente por la administracion de la aduana

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maritima de Monterrey para los años de mil ochocientos treinte y cuatro y mil ochocientos treinta y cinco.

RAFAEL GONZALES.

FIGUEROA.

[SELLO.]

Se apreuco a la consecion echa a los ciudadanos Macsimo Martinez y Domingo Peralta del paraje nombrado Cañada del Corte de Madera corcedido en diez de Junio de mil ochocientos treinta y tres de entera conformidad con lo prevenido en la ley de diez y ocho de Ogosto de mil ochocientos veinte y cuatro y el articulo quinto del reglamento de veinte y uno de Noviembre de mil ochocientos veinte y ocho.

Monterrey diez y siete de Mayo de mil ochocientos treinta y cuatro. En secion de cue dia se aprovo por la eccelentisima diputacion la proposicion del dictamen antecedente, mandando se debuelva el espediente al Señor gefe superior politico para los fines consiguientes.

JOSÉ FIGUEROA.

JUAN BAUTISTA ALVARADO,
Secretario.

Monterrey, Junio once, de mil ochocientos treinta y cuatro.

En vista de la aprovacion otorgado en diez y siete de Mayo ultimo por la eccelentisima diputacion territorial: libr ese testimonia de ella y de este decreto a las partes de Don Macsimo Martinez y Don Domingo Peralta en confirmacion a la concecion del terreno de la Cañada del Corte de Madera que obtuvieron en cinco de Junio delano procsimo pasado. El Señor Don Jose Figueroa, general de brigada comandante general y inspector y gefe superior politico de la Alta California asi lo mando decreto y firmo de que doy fe.

JOSÉ FIGUEROA.

AGUSTIN V. ZAMORANO,
Secretario.

Concuerda a la letra con su original del cual hize sacar el presente testimonio para resguardo de la parte interesada, en Monterrey a once de Junio de mil ochocientos treinta y cuatro, siendo testigos los ciudadanos Agustin V. Zamorano y Bernardo Navarrete de esta vecindad.

En testimonio de verdad.

JOSÉ FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

[*For map see original, page* 104.]

El Ciud'no Man'l Michelto'a Gral. de Brigada del Ejercito Mejicano Ayud'te Gral. de la Plana Mayor el mismo Gob'dor Comand'te Gral. e Inspector del Departam'te de California.

Por cuanto el Erc. Macsimo Martinez ha pretendido p'a su beneficio persona y de *de* su familia el aumento de dos sitios de ganado mayor a continuacion del que del tiene consedido desde 10 de Junio, de 1833, y habiendose practicado las diligencia aversiguacione consernientes ag'r lo dispuesto pon leyas y reglam'tos usando de los facultades que me son conferidas a nombre de las nacion Mejicana he venido en consederle el amoranto referido, siendo el lindero de todo el terreno tanto del venpado como del que actualm'te se consede, con los ranchos de D. José Peña, con el de las Pulgas; con el del indio Gorgonio y con la sierra de S'ta Cruz, sugetandose a la aprovasion de la E. asamblea departamental y a las condiciones sig'tes:

1a. No podra venderlo enagenarlo, imponer cana vimole, fianza, ni otro grabamen alguno.

2a. Podra cercarlo sin perjudicar las trabesias caminos y servidumbres, lo disfrutara libre y esclusivam'te destinandolo el uso o cultivo que mas le combenga por dentro de on ano fabricara casa y estara habitada.

3a. Solicitara del juez respectivo que le de posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra al mas de las mojoneras, algunos arboles frutales ó silvestres de alguna utilidad.

4a. El terreno de que de hase donacion en aumento al que ocupa, es de dos sitios de ganado mayor; poco mas ó menos, bajo los linderos mencionadas y sin perjudicar las limites del terreno que pertenese a la testamentrain del jinado, Antonio Buelna, el jues que diere la posecion lo medira conforma a ordenanza que dando el sobrante que resulta a la nacion pa. los usos convenientes.

5a. Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro. En consecuencia mando que serviendole de titulo el presente, y teniendose por firme y valedero, de tome razon de el en el libro respectivo y se entregue al interesados pa. su resguardo y demas fines.

Dado en Mont., a primero de Mayo, de mil ochocientos cuarenta y cuatro.

MAN'L MICHELT'A.
MAN'L JIMENO, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and, as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the twelve preceding and hereunto annexed pages of tracing paper, numbered from one to twelve inclusive, exhibit a true and accurate

copy of a certain document entitled "Espediente promovido por Don Macsimo Martinez en pretencion del parage nombrado Cañada del Corte de Madera," now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this twenty-first day of April, 1857.

[SEAL.] JOHN C. HAYS,
U. S. Sur. Gen'l for Cala.

Endorsed: Filed April 22, 1857.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Certified copy of Juridical Possession from U. S. Surveyor Gen'l.

Jusgado Constituc'l de S. José de Guad'e. Año de 1836.

Espediente initruido pa. medir y dar posecion de vu sitio de ganado mayor al C Maximo Martinez, del terreno conosido con el nombre de las Cañada del Corte de Madera.

Juez el alcalde constituc'l de dicho pueblo.

Asistencia: JOSE BERREYESA, y
IGNACIO MARTINEZ.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

Sr. Alcalde Constituc'l:

Erc. Maximo Martinez, ante V. como mas haya lugar en derecho digo que habiendoseme concedido pa. la exma. diputacion territorial, el terreno conocido con el nombre de la Cañada del Corte de Madera, segun lo acredita el titulo qe. respetivam'te acompaño, y diseño qe. le sigue; pido à V. se sirvas darme la posecion juridica de el qe. es de un sitio, con las formalidades de la ley pa. evitar todo perjuicio.

A. V. suplico se sirva prover como pide por su de justicia; qe. imploro, y pro lo nesesario, &c.

S. José de Guad'e, 13 de Feb., de 1836.

ARRUEGO DEL VITERESADO,
JOSÉ BERREYESA.

Sor precentada esta peticion con los documentos qe. espresa ci-

tense alos circumbecinos, y hagase informacion de identidad, vista de ofos, y raonocien'to de dichas tierras. El E. José Ma. Alvisa, alcalde constitucional del pueblo de S. José Guadalupe, acreando pro receptorio con *con* dos testigos de asistencia a falta de escribano publico, asi lo pr. obeyó, maen dé y firmo con los orsa asistencia.

JOSÉ MA. ALVISA.

Asist'a: JOSE BERREYESA,
IGNACIO MARTINEZ.

En el espresado pueblo a los quiece dias del mismo mes y año, el C. alcalde constitucional con los de su asistencia, pa. proceder a la informacion de idencidad qe. espresa el cueto de su uso, hísa comparecer al C. Luis Chaboya, en su persona qe. conocemos, vecino de este pueblo, de oficio labradore, casado; al cual se le recibire juramento que hisa por dios nu estro Señor, y las señal de la Santa Cruso, pe. el qe. prometio decir verdad; y habiendolo sido sobre el conocimiento que tenga de las tierras y parages, terminos y linderos pertenecientes al rancho nombrado la Cañada del Corte de Madera; diro, qe. hace mas de veinte años es vecino de este pueblo, y sabe positivam'te qe. las tierras pe. qe. se le preguntar han pertenecido al C. Maximo Martinez, y tiena pr. linderos conosidos el arroyo de S. Francisquito; con el arroyo del Matadero, los cuales a visto y reconocido varias veces, y desde que las pocee dho. Martinez las ha labrado y cutribado pastando en ellas sus ganados, y qe. pa. paneba de lo qe. tiene dho. esta proner ha hié a dichas tierras con el presente alcalde, y señalarle los parajes, terrenos y linderos donde llegar; que lo que lleba dicho esta verdad pa. el peramento qe. tiene hecho en qe. se afirmó y ractifico, ley da qe. le fue esta declaracion, diciendo sea de edad de cuarenta y cuatro años, qe. las generales no le tocan, y lo firmó con el presente alcalde y los de su asistencia.

JOSÉ MA. ALVISA.

Asist'a: JOSE BERREYESA,
LUIS CHABOYAS,
JOSE MA. ALVISA,
YGNACIO MARTINEZ.

Yn mediatamentas yó el mencionado alcalde con los de.

Sello Cuarto—Una Cuartilla.

Habilitado provincionalmente por la administracion de la aduana maritima de Monterrey, de la Alta California para los años de mil ochocientos treinte y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Revalídado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

Mi asistencia hice comparecer á Juan Soto, en su persona qe. conocemos, vecino de esta jurisdicion, de oficio labrador, casado, al cual se le recibio juanmence segun forma, pon el qe. prometio decir verdad, y siendolo pa. el conocimiento de las tierras y parajes, terminos y linderos pertenecientes al rancho nombrado la Cañada del Corte de Madera; diro, que hace mas de diez años es vecino de esta jurisdicion, y sabe qe. las tierras pertenecientes al espresado rancho hansido poseidas pa. el C. Maximo Martinez, y tiene pr. linderos conocido el arroyo de S. Francisquito, hasta el arroyo del Matadero los cuales ha visto y reconocido varias veces, y qe. desde qe. las pacee dicho Martinez la ha labrado y cutoibado; y pastado en ellas sus ganados; y qe. pa. prueba y conocomiento de cuanto tiene dicho esta pronto á hie á dichas tierras con el presentes alcaldes, y señatarle los parajes, terminos y linderos donde llegan, y qe. esto qe. lleba dicho es la verdad acargo del peramento presta de en que se a firmo y vartifico, leyda qe. le fue esta declaracion; diciendo see de edad de cuarenta y ocho años; qe. las grales, no le tocan, y pa. no saber firman juso la señal de la cinde, y lo firmo el alcalde con los de su asistencia.

JOSÉ MA. ALVISA.

Asist'a: José Berreyeza.
Ygnacio Martinez.

Yncontinente comparecio el C. Fran'co Palomares en su persona qe. conosemos vecino de esta jurisdicion de oficio labrador, casado al cual se le recibio peramento segun costumbre, pa. el qe. prometio decir verdad, y siendo preguntado pa. el conocim'to de las tierras y parajes, terminos y linderos, pertenecientes al rancho nombrado la Cañada del Corte de Maderas. Diro, que hace mas de dier años, qe. as vecino de este pueblo, y sabe qe. las tierras pertenecientes al espresado rancho han sido poseidas pa. el C. Maximo Martinez, y tiene pa. linderos conosidos dos arroyos, uno a cia el N. y otro al S. lomas bajas y cierra alta qe. corre de Norte à Sur, las cuales ha visto y reconocido varia veces, y desde qe. las pocea d'ho. Martinez las ha labrado, y justado en ellas sus gañados, y qe. pa. prueba y conocimiento de cuanto tiena dicho, era pronto ha hia a dichas tierras con el presente alcalde, y señalar le los parajes, terminos, y linderos donde llegan; qe. lo qe. tiene dicho es la verdad, a cargo del juramente prestado, en qe. se afirmo y ractifico leyda qe. le fue esta esposicion, diciendo ser de edad de veinte y sieta años, y qe. las grales, de la ley no le tocan, no firmando pa. no saber, pero lo verifico el alcalde con los de sa asistencia.

JOSÉ MA. ALVISA.

Asist'a: José Berreyeza.
Ygnacio Martinez.

En el espresado pueblo en el mismo dia, mes, y año, se libraron

voletas de comparendo, dos colindantes, padre ministro en la mision de Sta. Clara, y Da. Soledad Ortega.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterrey, de la Alta California, para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.

A. RAMIREZ.

FIGUEROA.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

Para que compare ca sus mayordomos en el rancho titulado la Cañada del Corte de Maderas, pa. el dia diez y ocho del presente mes, y entenados ambos de este auto contestaron de que a si lo ejentarian, y se dar pon citados, firmandolo con el presente alcalde y los de su asistencia.

JOSÉ MA. ALVISA.

Asist'a: JOSÉ BERREYEZA.
YGNACIO MARTINEZ.
JUAN DE TRADO MESA.
MANUEL PEÑA.

Estando en el campo, en el paraje qe. le llaman la Cañada del Corte de Madera, en diez y ocho de Febrero de mil ochocientos treinta y seis; yo el alcalde constitucional actuando por receptoria con dos testigos de asistencia a falta de escribano publico, los testigos por mi ectaminados, presente el dicho Maximo Martinez, C. C. Juan Prado Mesa, y Teodosio Flores, ambos mayordomos de las partes circuerbe cinas, procedi a ver y reconocer las tierras de dicho rancho; y pa. su mayor claridad puesto a caballo, en compania de todas las partes, y testigo referidos mande a los su sa dichos me señalas en los parajes, terminos y linderos de ellas, segun los señales que, han declarado en sus deposiciones, y en su conformidad, guienon a la partes del norte hasta llegar auna laguna permanente utenia deunos peña sconas de arroyes de S. Francisquito de hallé se procedio al reconocimiento y vista de ojos ara el O. caminando por la orilla de dicho arroyo, hasta llegua a la punta de tomas bajas, y ser terminos y lindero de las espresadas tierras de la Cañada del Corte de Madera; desde dicho paraje se continue dicha vista de ojos caminando acia al S. hasta llegar al arroyo del Matadero termino y lindero de las sus o dichas tierras; y de halle se procedio el reconociniente y vista de ojos cesia el Ste. hasia llegar al rincon que hace la cierra alto pa. ultimo lindero de las mencionadas tierras; cuyos parajes yo el alcalde constitucional vi y reconoci con los de mi asistencia, testigos espresados y papeles presentados, y cotejado dicho reconocimiento con ellos halle su sie asa la identi-

ficacion de las mencionadas tierras, segun y como lo declaran dichos testigos, y pa. que conste lo pongo por diligencia, y lo firmo con los de mi asistencia y demas que supecaon, doy fé.

JOSÉ MA. ALVISA.

Asist'a: José Berreyeza.
Ygnacio Martinez,
Juan de Prado Mesa.
Manuel Peña.

En el mismo dia, mes, y año, yo el alcalde constitucional, digo, que para proceder a las medidas contenidas en estos autos, mande se notifique a dicho C. Maximo Martinez de que los medidores nombrados son los ciudadanos Dolores Pacheco, y Manuel Peña, pa. inteligentes en materia de mededas, y en su concecuencia, dijo lo hoye, y qe. combiene en dicho nombramientos, por la cual mando dicho alcalde se notificase si los espresados medidores, nombrando el dia diez y nueve.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterrey, de la Alta California, para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.

Figueroa. A. RAMIREZ.

Revalidado para el bienio de 1836 y 1837.

Gutierrez. A. RAMIREZ.

Del corriente para proceder a las medidas de dichas tierras, y enconcecuencia mando se diese a saber a dichos medidores, pa. qe. parescair acaptar y furen en debidas forma; y para que con fé lo firmo con los de me asistencia.

JOSÉ MA. ALVISA.

Asist'a: José Berreyeza.
Ygnacio Martinez.
Juan de Prado Mesa.
Manuel Peña.

Ynmediamente comparecieron los C. C. Dolores Pacheco, y Manuel Peña, medidores nombrados, y hecho saber el auta de su usa, dijeron aceptan el encargo su so dicho, y en su vista furaron por dios nuestro Señor y la señal de la Santa Cruz, de que vrarar bien y fielmente el encargo referido, a todo su leal saber y entender y qe. haran dichas medidas fiel y legalmente como es de sus obligaciones, sin fraudes ni engando en contra ninguna de las partes; esto respondieron y firmaron, doy fé.

JOSÉ MA. ALVISA.

Asist'a: José Berreyeza.
Ygnacio Martinez.
Juan de Prado Mesa.
Manuel Peña.
Dolores Pacheco.

En seguida se hiso saber a los interesados y medidores dia veinte, del corrienta, al paraje nombrado la Cañada del Corte de Madera, para proceder a las medidas de dichas tierras; é impuestos todos de este auta dijeron lo oyen, y de dan por citados, firmando los que supieron, para constancia doy fé.

JOSÉ M. ALVISA.

Asist'a: José Berreyeza.
Ygnacio Martinez.
Juan de Prado Mesa.
Manuel Peña.
Dolores Pacheco.

En el rancho titulado la Cañada del Corte de Madera, a veinte y dos de Febrero de mil ochocientos vecinta y seis, presente el C. Maximo Martinez y circumbecinos a dichos tierrar hise comparecer ante mi y los de mi asistencia a los CC. Dolores Pacheco y Manuel Peña medidores, nombrados a los cuales mande distar un cordel, y miden concuenta varas, con vara de media de cuatro palmos castellanos, y con efecto los susodichos en mi presencia medieron un cordel toriedo y bien tirado con veras varas Mexicana en todas forma hacen al numero de cincuen tara varas: la cual medida se hiso fiel y legal.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterrey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Castro. ANGEL RAMIREZ.

Revalidado para el bienio de 1836 y 1837.

Gutierrez. A. RAMIREZ.

Mente ás vistaz crencia y paciencion del interesado y circumbecinos, en cuya atencion manda se ponga por diligencia.

JOSÉ MA. ALVISA.

Asist'a: Jose Berreyesa,
Ygnacio Martinez,
Juan de Prado Mesa,
Manuel Peña,
Dolores Pacheco.

Estando en el campo y tierras pertenecientes al rancho de la Cañada del Corte de Madera hoy veinte, y dos de Febrero de mil ochocientos treinta y seis, yó el alcalde constitucional del pueblo de S. José de Guadalupe, actuando por receptoria con los testigos de asistencia á falta de escribano publico, presente el C. Dolores Pacheco y Manuel Peña inedidores nombrados, mande procediesen a la medida de un sitio de ganado mayor, que toca y pertenece al rancho de la Cañada del Corte de Madera, segun el titulo y diceño presentados en cuyo obedecimiento habiendo vuelto a media y

reconocer el cordel, dieron principio a dicha medida, desde el rincon de la cierras, que mira asia el N. camiceaerdo por este rumbo hasta llegar a ve laguna permanente a loria de una penasconer del arroyo de S. Francisquito, quedan de este por lindero, desde alli se siguis la medida asia el O. por la orilla del mismo arroyo hasta donde venratuer las lomas bajas, que dando estas por lindero, con la mission de Santa Clara, desde este parage se tomo el rumbo a sia el S. hasta el arroyo del Matadero que dando este igualmente por lindero de la susodicha mision, y no habiendo se completado en este la legua, se le año dieron los diez y ocho cordeles hacia el O. que es la las ultimas lomas bajas: Desde este parage se tomo el rumbo asia el sudueste atrabesana algunas lomas hasta el rincon de la cierra, donde se comenso a media, y se completo el sitio de ganado mayor, que se le concedio al repetido Martinez con la lomeria por haberla pedido el interesado y no perjudicar a nadie, de manera que.

Sello Cuarto—Una Cuartilla.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterrey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

El referido sitio de ganado mayor de que consta el rancho de la Cañada del Corte de Madera, perteneciente al C. Maximo Martinez, forma un cuadro de veinte mil varas castellanas, y regulado por dichos medidores declararon esta el repetido C. Maximo Martinez enterado de las tierras que le corresponden a su rancho, segun el titulo y dice no que obra a la cabesa de este espediente, sin que se perjudicase a tercero, por lo cual arrando dicho Martinez, varias ramas y llervas, arrojandolas asia los cuatro vientos, en señal de su legal y legitima posecion, en tal estado mando el C. alcalde que para permanencia y claridad de los linderos que ban espresados hiistise a su consta y mencion vuez mohoneras de piedra y cal, en altos de mas de una, vara para que de todo tiempo consta se observe, y guarden por terminos y linderos de sus tierras, por los demas circumbecinos de ellas, y de haberse ejecutado dichas medidas quiera y pacificariente, su contradicion de persona algunas, lo pidio por testimonio y yó el alcalde constitucional del pueblo de San Jose de Gaudalupe, actumeedo por receptoria con dos testigos de asistencia a falta de escribano publico, lo doy de haber pasado como dicho es, y que las espresadas medirdas han sido hechas a todo el hal sobre y entender de los medidores segun depucieron, sin dolo fraude y corgaño de contra de viergan na persona, y para mas seguridad ractificaoron el jura-

medito que treinta hecho, y lo firmaron con el repetido alcalde, los de su asistencia y los demas que sujieron y se hallaron presentes.

JOSÉ MA. ALVISA.

Asist'a: JOSE BERREYESA,
YGNACIO MARTINEZ,
MANUEL PEÑA,
DOLORES PACHECO.

En virtud de hallarse concluedas estas diligencias conforme a la ordinanza de la materia entregue a originales a la parte del C. Maximo Martinez, con los documentos que presente para los usos que le combengar: El C. José Ma. Alvisa, alcalde constitucional del pueblo de San José de Guadalupe actuando por receptoria con dos testigos de asistencia a fato de escribano publico asi lo proveyo mando y firmo hoy veinte y tres de Febrero de mil ochocientos treinta y seis.

JOSÉ MA. ALVISA.

Asist'a: JOSE BERREYESA,
YGNACIO MARTINEZ.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and, as such, having on file in my office and in my charge and custody the records and papers of the late board of United States commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the thirteen preceding and hereunto annexed pages of tracing paper, numbered from one to thirteen inclusive, exhibit a true and accurate copy of a document endorsed "No. 36, Exhibit No. 3, to deposition of Wm. A. Richardson and others in No. 36, H. J. T.—Maximo Martinez—Cañada del Corte de Madera—Filed in office February 8, 1853—Geo. Fisher, sec'y—Recorded in Record of Evidence, vol. 6, page 366 to 372—Geo. Fisher, sec'y—Exhibited in deposition of Antonio Maria Pico in case No. 306, in question 6 therein, Jan'y 27, 1855—Geo. Fisher, sec'y—Peter Lott, com'r"—and now on file in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this twenty-fourth day of April, 1857.

[SEAL.]

JOHN C. HAYS,
U. S. Sur. Gen. for Cal'a.

Endorsed: Filed April 25, 1857.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Translation of Expediente.

1844.

Espediente.

Promoted and forwarded by Don Maximo Martinez, requesting the grant of the site designated "Cañada del Corte de Madera."

"366."

Most Excellent Sir Governor:

I, Maximo Martinez, a native of this department, and residing at the pueblo de San Jose Guadalupe, do say and expose unto your excellency's uprightness, and according to all due forms of law and right, that in the year 1833 I obtained from the government of this department, conjointly with Don Domingo Peralta, the grant of one "sitio de ganado mayor," known under the designation of "la Cañada del Corte de Madera," in the mountain, covered with trees, (sierra,) or ridge of mountains, lying in a direction towards Santa Cruz, and the source of the brook or creek designated "de San Francisquito," and Señor Peralta having ceded and surrendered to me on the 19th day of May, 1834, his right to the aforesaid land, as I am prepared to prove, and I do prove by the means of the accompanying document, and in virtue of which juridic possession was awarded to me in the 23d day of February, 1836.

But, inasmuch as I happen to have a numerous family, and such a small and limited extent of land as that which I possess at present is not sufficient for their support, I request Y. E. that, on account of what I have just exposed, you may be good enough to grant to me two other "sitios," that at the present time are vacant, adjoining my aforesaid piece of land, as it appears from the accompanying sketch, and bordering towards the north on the rancho de Dn. Soledad Ortega, towards the east on that of Dn. Jose Peña, towards the west on that of Dn. Encarnacion Valencia, and towards the south on that of the native Gorgonio; and I request that there may be delivered to me one and single title-deed, comprising the three aforesaid "sitios de ganado mayor," in my own right.

Therefore I request Y. E. to be pleased to provide towards the accomplishment of my petition, and by your so doing I shall receive both mercy and justice.

I swear not to proceed moved by any sense of malice or wilfulness, and I also swear to everything to be sworn to in what concerns forms of law.

Pueblo de San Jose Guadalupe, March the 21st, 1844.

(Signed) MAXIMO MARTINEZ.

MONTEREY, *on the 29th day of March*, 1844.

Let the secretary of state report thereon, he causing other reports to be delivered to him, if he should think it fit.

MICHELTORENA.

Let this memorial be transferred to the señor alcalde *Jose* del pueblo de San Jose, as the most excellent sir orders, in order that said alcalde may report concerning its contents, after due summons, to the respective bordering land-owners, and that he may declare whatever he may find to the purpose in the matter.

Monterey, March the 29th, 1844.

(Signed) MANUEL JIMENO.

In compliance to and on account of the superior decree of the 29th day of last March, and the order of the sr. (secretario del despacho) or secretary of state which has been directed to me under same date, I proceed to report as follows: The party concerned in the memorial in question possesses all the requisites which the law specifies in order to enable him to obtain the gift or grant of the land he requests, to get as much on account of his acknowledged honest behavior and deportment, as because of the services he has rendered to the nation. But in case of the grant being made, he shall have to be subject to and bound by the boundaries of the rancho of the deceased Don Antonto Buelna.

What precedes constitutes all the information that I possess on the subject.

Pueblo de San Jose, April 10, 1844.

(Signed) ANTONIO PICO.

Most Excellent Sir Governor:

The parcel of land, the grant of which is solicited by Señ. Martinez, appears from the sketch thereunto relating to be vacant, and therefore it is susceptible of being awarded to him on account and in consideration of the services he rendered to the nation in the military career, under due subjection, and according to the boundaries of the deceased Buelna; but your excellency, with your usual discernment, will decide what you may think fit.

Monterey, April the 27th, 1844.

(Signed) MANUEL JIMENO.

Approved, and let the patent be issued.

Monterey, April the 27th, 1844.

(Signed) MICHELTO'A.

MONTEREY, *April the 27th*, 1844.

After due notice of the petition at the beginning of this record of proceedings, and of the preceding reports, together with whatever else it was thought convenient to attend to in accordance to the laws and regulations on the matter, I hereby daclare the citizen Maximo Martinez owner of the location designated "Cañada del Corte de Madera," having for its boundaries those specified in the title-deed, and of an area of three "sitios de ganado mayor," which forms or includes all the land thereof.

The señor governor did order, decree, and sign it to the purpose, and I attest it.

I certify, that of the property and right which I have through and in virtue of the memorial in solicitation of the location designated as "la Cañada del Corte de Madera," which was made conjointly with the neighbor Maximo Martinez, I make a total cession of it, with all my movables in the property of my father, surrendering all my said rights to the grant to the aforesaid individual, and let him enjoy it as the owner, and let him dispose over it as the only master thereof; and for his convenient ends and purposes I give to him the present document, in the pueblo de S. José de Gaudalupe, on the 19th day of May, of 1834.

The preceding writing is a copy of the original document, which copy has been made by the secretaryship of the government on this day, the 19th of April, 1844.

(Signed) MANUEL JIMENO.

The grant made to the citizens Maximo Martinez and Domingo Peralta of the location designated as "Cañada del Corte de Madera," granted on the 10th day of June, of the year 1833, in complete conformity to the purport of the law of August the eighteenth, 1824, and the 5th article of the regulation of the 21st day of November, 1828, relating to the matter, is hereby approved of.

Monterey, May the 17th, 1834.—In this day's sitting did the most excellent the deputation approve of the proposition of the preceding opinion, ordering at the same time that the expediente be sent back to the señor gefe superior politico for due ends and purposes.

(Signed) JOSÉ FIGUEROA.
JUAN BAUTISTA ALVARADO,
Secretary.

MONTEREY, *June the* 11*th*, 1834.

After due notice of the approval awarded on the 17th day of last May, by the most excellent the deputation of the Territory, and in virtue thereof, let an attestation of it, and of this decree, be delivered unto the parties concerned, Don Maximo Martinez and Don Domingo Peralta, as a confirmation to the grant of the lands of "la Cañada del Corte de Madera," which they obtained on the 5th day of June of last year.

The Señor Don José Figueroa, general de brigada, comandante general, inspector y gefe superior politico de la Alta California, ordered, decreed, and signed it towards the purpose; all of which I attest.

(Signed) JOSÉ FIGUEROA.
(Signed) AGUSTIN ZAMORANO,
Secretary.

It is in literal conformity to the original thereof, out and from which I had the present attestation taken and drawn for the con-

cerned party's security, in Monterey, on the 11th day of June, 1834, the citizens Agustin V. Zamorano and Bernardo Navarette, dwellers in this neighborhood, acting as witnesses.

In testimony of truth.

(Signed) JOSÉ FIGUEROA.
(Signed) AGUSTIN V. ZAMORANO,
Secretary.

The citizen Manuel Michelt'a, General of Brigade of the Mexican Army, Adjutant General of the Staff of the same, Governor, Commandant General, and Inspector of the Department of California.

Whereas the citizen Maximo Martinez has solicited for his personal benefit, and that of his family, the additional grant of two "sitios de ganado mayor," in continuation and as an annexation to that of which has the grant since the 10th day of June, 1833, and all due investigations and requirements having been performed in conformity to the purport of the laws and regulations on the subject, in the exercise of the powers conferred on me, in the name of the Mexican nation, I have found it fit to grant to him the addition he requests, the boundaries of all the lands, as much that part already occupied and settled as that which by *the* presents is being granted, to be the ranchos of D'n José Peña, that of Las Pulgas, that of the Indian Gregorico, and lastly the mountain covered with trees, (sierra) or ridge of Santa Cruz, subject to the approval of the excellent the assembly of the department, and to the following conditions:

1st. He shall not be able to sell it, alienate it, set or impose on it any ("censo") annuity, ("vinculo") entail ("fianza") bond, or any other ("gravamen") incumbrance.

2d. He may and is free to fence it, without any prejudice therefrom proceeding to the paths, roads, and servitudes; he will enjoy it freely and exclusively, destining it to the usage or culture that may best suit him; but within a year he must build a house, which is to be dwelt in.

3d. He is to solicit from the respective judge to give him juridical possession in virtue of this document, by whom the boundaries are to be settled, on the limits of which he is to set, besides the landmarks, some plants of trees, either fruit-bearing or forest, but of some utility.

4th. The extent of land granted, in addition to that which he is occupying at the present time, is of two "sitios de ganado mayor," more or less, and within the aforementioned boundaries, and without any encroachment on or prejudice to the ("tes lamentaria") or "testamentary execution" of the deceased Antonio Buelna. The judge who may give him possession is to have it measured and surveyed according to ordinances, and the remainder, if there should

happen to be any, is to be left to the disposal of the nation for any convenient uses.

5th. Should he fail to fulfil any of these conditions, he shall lose his right to the land, and it shall be denounceable by any other party.

Consequently I order, that holding these presents as a firm and valid title, it shall be entered in the proper book, and then let it be delivered over to the party concerned for his security and any suitable purposes.

Given in Monterey on the 1st day of May, 1844.

(Signed) MANUEL MICHELT'A.
MANUEL JIMENO,
Secretary.

I certify the foregoing to be a true and correct translation, revised and corrected, of the fac simile copy of the original expediente on file in the U. S. surveyor general's office, and which fac simile, authenticated by the said surveyor general, is on file in this office, in case No. 36.

MAXIMO MARTINEZ.
GEO. FISHER, *Sec'y.*

I, John C. Hays, U. S. sur. gen'l for California, and as such having in my charge and custody the papers of the late board of land commissioners "to ascertain and settle the private land claims in California," do hereby certify the foregoing seven pages to be a correct copy of the papers on file in my office, endorsed: No. 36—Maximo Martinez—Rancho del Corte de Madera—C. Translation of C Expediente—Recorded in Record of Evidence, vol. 7, pages 367, 372—Filed in office Feb. 12, 1852.—Geo. Fisher, sec'y.

Given under my hand and official seal, at the city of San Francisco, this 27th day of April, 1857.

JOHN C. HAYS,
U. S. Sur. Gen'l, Cal.

Endorsed: Filed April 27th, 1857.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Translation of Juridical Possession.

Constitutional Justice's Court of S. Jose de Guade.—Year 1836.

Record of proceedings for measuring and giving possession of one sitio de ganado mayor to the citizen Maximo Martinez of the land known by the name of the Cañada del Corte de Madera.

Justice: The constitutional alcalde of said pueblo.

Assistants:

José Berreyesa and
Ignacio Martinez.

Honorable Constitutional Alcalde:

I, the citizen Maximo Martinez, before Y. H. in the most just way, say, that having been granted by the excellent territorial deputation the land known by the name of Cañada del Corte de Madera, as accredited by the title, which I hereby respectfully annex, and the sketch which follows it, I ask you to be pleased to give me the juridical possession of the same, being one square league, with the formalities of law, in order to avoid all injury. Therefore I pray you to be pleased to decree as I ask, because it is justice I implore, and I make the necessary oath, &c.

San José de Gaude., 13th of February, 1836.

At the request of the interested party.

JOSÉ BERREYESA.

This petition, with the documents therein quoted, being presented, let the surrounding neighbors be cited, and let information of identity, occular view, and cognizance be taken of said land. The citizen José Ma. Alvisa, constitutional alcalde of the pueblo of San Jose Gaudalupe, acting as judge ad interim, this did decree, order, and sign with his two attesting witnesses, for want of a notary public.

JOSÉ MARIA ALVISA.

As'a: JOSÉ BERREYESA,
IGNACIO MARTINEZ.

In the said pueblo, on the 15th day of the same month and year, the citizen constitutional alcalde, with his assistants, in order to proceed to the information of identity which the decree directs, summoned the citizen Luis Chaboya in person, whom we know, a resident of this pueblo, a husbandman by profession, married, to whom was administered an oath, which he made by God our Lord and the sign of the Holy Cross, in which he promised to speak truth, and upon the knowledge he may have of the land and its location, borders, and boundaries appertaining to the rancho called la Cañada del Corte de Madera, he said that is more than twenty years that he is a resident of this pueblo, and he knows positively that the land in question has belonged to the citizen Maximo Martinez, and has for known boundaries the arroyo de San Francesquito, the arroyo del Matadero, which he had seen various times, and since said Martinez possesses it he has labored and cultivated it, his cattle pasturing thereon; and to prove what he has said, he is ready to go to the said land with the present alcalde and designate to him the location, the land, and the boundaries and their extent; that what he has said is the truth, on the oath he has made, which he affirmed and ratified; this declaration being read to him, he said that he was 44 years old, that the disabilities of

the law don't affect him, and he signed with the present alcalde and his witnesses.

JOSÉ M. ALVISA.

As'a: JOSÉ BERREYESA,
LUIS CHABOYA,
IGNACIO MARTINEZ.

Immediately I, the mentioned alcalde, with my assistants, summoned Juan Soto, in person, whom we know, resident of this jurisdiction, a husbandman by profession, married, to whom was administered oath according to form, in which he promised to speak truth, and on his knowledge of the land and its location, extent, and boundaries appertaining to the rancho called la Cañada del Corte de Madera, he said that is more than ten years since he became a resident of this jurisdiction, and he knows that the land belonging to the said rancho has been possessed by the citizen Maximo Martinez, and has for its known boundaries the arroyo de San Francesquito to the arroyo del Matadero, which he has seen and recognised at various times, and since said Martinez possesses it he has cultivated and pastured his cattle on it; and as proof of the knowledge of what he has said, he is ready to go to the said land with the present alcalde and to designate to him the location, extent, and boundaries to their extent, and that what he has said is the truth under oath which he has taken, affirmed, and ratified; this declaration having been read to him, saying that he was 48 years old, that the disabilities of the law don't affect him, and not knowing how to sign he made the sign of the cross, and the alcalde signed with his witnesses.

JOSÉ MA. ALVISA.

Wit: IGNACIO MARTINEZ,
JOSÉ BERREYESA.

In continuance, the citizen Francisco Palomares personally appeared, whom we know to be a resident of this jurisdiction, a husbandman by profession, married, to whom the customary oath was administered, and under which he promised to speak the truth, and being questioned as to the knowledge he had of the land, the location, extent, and boundaries appertaining to the rancho called la Cañada del Corte Madera, he said that it is more than ten years that he is a resident of this pueblo, and knows that the land belonging to said rancho has been possessed by the citizen Maximo Martinez, and it has for its known boundaries two creeks, (arroyos,) one towards the north and one to the south, low hills, and a high mountain which runs from north to south, which he has seen and recognised at various times, and since said Martinez possesses it he has cultivated it and pastured his cattle on it; and as proof of the knowledge of what he has said, he is ready to go to said land with the present alcalde and designate to him its location, extent, and

boundaries as far as they extend; that what he has said is the truth on the oath taken, which he has affirmed and ratified; this statement being read to him, saying that he was 27 years old, and that the disabilities of the law don't affect him, not signing because he did not know how, but the alcalde and his witnesses did so.

JOSÉ M. ALVISA.

As'a: JOSÉ BARREYESA,
IGNACIO MARTINEZ.

In the said publo, on the same day, month, and year was issued summons to the bordering land-owners, father minister of the mission of Santa Cruz, and Dn. Soledad Ortega, that their mayordomos should appear on the rancho named la Cañada del Corte de Madera, on the 18th of the present month, and both being apprized of this decree, answered that they should comply with it, and they considered themselves cited, signing this with the present alcalde and his witnesses.

JOSÉ MA. ALVISA.

Witnesses:
JOSÉ BERREYESA,
JUAN DE PRADO MESA,
IGNACIO MARTINEZ,
MANUEL PEÑA.

Being in the field in the place called la Cañada del Corte de Madera, on the 18th day of February, 1836, I, the constitutional alcalde, acting as judge ad interim, with two attesting witnesses, for want of a notary public, the witnesses by me examined, the said Maximo Martinez, the citizen Juan Prado Mesa and Theodorio Flores, both mayordomos of the adjoining neighbors, being present, I proceeded to view and reconnoitre the land of the said rancho, and, for greater accuracy, on horseback; in company of all the parties and said witnesses, I ordered the aforesaid that they should show me the location, the extent, and boundaries of it according to the marks they had declared in their depositions, and in conformity thereto they guided me towards the north until arriving to a permanent lagoon in the line of some rocks of the creek of San Francesquito, from whence the recognizance and ocular survey was proceeded with towards the west, travelling by the margin of said creek until arriving to the point of the low hills, (lomas bajas,) and being the extent and boundaries of the said land of la Cañada del Corte de Madera; from the said place continued the said ocular survey, travelling towards the south, until arriving to the arroyo del Matadero, (creek of Slaughter Place,) extent and boundary of the above named land, and from whence proceeded the recognizance and ocular survey towards the southeast, until arriving at the corner which makes the Sierra Alta the last boundary of the said land, which locations I, the constitutional

alcalde, saw and recognised with my witnesses, with the said witnesses and papers present, and comparing said recognizance with them, I found a certain identification of the said land in conformity with, and according to, the declarations of the said witnesses; and in testimony whereof, I sign with my witnesses, and those others who know how, to which I attest.

JOSÉ M. ALVISA.

As'a: JOSÉ BERREYESA,
JUAN DE PRADO MESA,
IGNACIO MARTINEZ,
MANUEL PEÑA.

On the same day, month and year, I, the constitutional alcalde, say, that in order to proceed to the measurements contained in these decrees, I ordered that the said citizen Maximo Martinez should be notified that the appointed measurers are the citizens Dolores Pacheco and Manuel Peña, skilful in the matters of measurement, and in consequence he said he heard it, and that he acquiesces to the said appointment; therefore the said alcalde ordered said measurers to be notified, appointing the 19th day, instant, to proceed to the measurements of said lands, and in consequence I ordered said measurers to be informed of it, that they may appear, accept, take the oath in due form, and in faith whereof I signed with my witnesses.

JOSÉ M. ALVISO.

Wit: JOSÉ BERREYESA,
JUAN DE PRA. MESA,
MANUEL PEÑA,
IGNACIO MARTINEZ.

Immediately, the citizens Dolores Pacheco and Manual Peña, appointed measurers, were summoned and made acquainted with the above decree; they said they accept the said appointment, and, in consequence thereof, they swore by the Lord our God and the sign of the Holy Cross to fulfil said appointment well and faithfully to the best of their knowledge and understanding; and will make said measurement faithfully and legally, as is their obligation, without fraud or deception against any of the parties; this they answered and signed, which I attest.

JOSÉ M. ALVISO.

Wit.: JOSÉ BERREYESA,
JUAN DE PRADO MESA,
MANUEL PEÑA,
IGNACIO MARTINEZ,
DOLORES PACHECO.

In continuance thereof, the interested parties and measurers were informed on the 20th instant, at the place called la Cañada del Corte de Madera, to proceed to the measurement of said land,

and all being apprized of this decree, they said they heard it and considered themselves cited, those who could, signing; in attestation of which, I give testimony.

JOSÉ M. ALVISO.

Wit.: José Berreyesa,
Juan de Prado Mesa,
Dolores Pacheco,
Ignacio Martinez,
Manuel Peña.

In the rancho called la Cañada del Corte Madera, on the 22d of February, 1836, the citizen Macsimo Martinez and the neighbors surrounding said land being present, I caused the citizens Dolores Pacheco and Manuel Peña, appointed measurers, to appear before me and my witnesses, whom I ordered to prepare a line and to measure fifty varas, with a vara measure of four Castilian palenas, and to this effect the above named, in my presence, measured a twisted line and well stretched with a Mexican vara, the whole of it making the number of fifty varas, which measurement was made faithfully and legally, in sight, belief and patience of the interested party and the surrounding neighbors; in attestation of which, I ordered them to subjoin their signatures.

JOSÉ M. ALVISO.

As'a.: José Berreyesa,
Juan de Prado Mesa,
Dolores Pacheco,
Ignacio Martinez,
Manuel Peña.

Being in the field, and the land belonging to the rancho la Cañada del Corte de Madera, to-day, the 22d of February, 1836, I, the constitutional alcalde of the pueblo of S. José de Guadalupe, acting as judge ad interim with the attesting witnesses, for want of a notary public, the citizens Dolores Pacheco and Manual Peña, appointed measurers, being present, I ordered them to proceed to the measurement of one square league, (sitio de ganado mayor,) which joins and appertains to the rancho la Cañada del Corte de Madera, according to the presented title and sketch, in obedience to which, having again measured and recognised the line, they commenced the said measurement from the point of the mountain, (Rincon de la Sierra,) which looks towards the north, following this course until arriving to a permanent lagoon, in a line with some rocks of the arroyo de San Francesquito, leaving this for boundary; from thence the measurement was continued towards the west, along the margin of the said arroyo, until the termination of the low hills, leaving these as boundary with the mission of Santa Clara; from this place we took the course towards the south unto the arroyo del Matadero, leaving this likewise as boundary of the

above named mission; and not having completed here the league, they added 18 cords towards the west, which are the last low hills; from this place we took the course towards the southwest, crossing some hills to the point of the Sierra, where we commenced to measure, and the square league was completed, which is granted to the named Martinez, with the highland, the interested party having asked for it; and not to prejudice anybody in such a manner that the said sitio de ganado mayor, which makes the rancho of la Cañada del Corte de Madera, belonging to the citizen Macsimo Martinez, forms a square of twenty thousand Castilian varas and regulated by said measurers, they declared the said Macsimo Martinez to be apprized of the land which appertains to his rancho, according to the title-deed and sketch that is annexed at the head of this record of proceedings, without prejudicing a third party; wherefore the said Martinez pulled off sundry twigs and grass, casting them towards the four cardinal points, as a sign of his legal and legitimate possession. At such stage of the proceedings, the alcalde ordered that, for the sake of permanence and clearness of the boundaries running as aforesaid, he should cause to be made, at his own expense, some landmarks of stone and lime, more than one vara in height, in order that in all time they may appear, be observed and be respected as metes and bounds of his lands by the surrounding neighbors thereof; and having executed said measurements quietly and peaceably, without any contradiction of any person, he solicited testimony thereof; and I, the constitutional alcalde of the pueblo of San José de Guadalupe, acting as judge ad interim with two attesting witnesses, for want of a notary public, give it as a fact as stated, and that the said measurements have been made to the best of the measurers' ability and understanding, as they deposed without imposition, fraud and deceit against any person; and for greater security they ratified the oath which they made, and signed it with the said alcalde, his attesting witnesses, and the others who were present and who knew how to write.

JOSÉ M. ALVISO.

Wit.: José Berreyesa,
Dolores Pacheco,
Ignacio Martinez,
Manuel Peña.

In consequence of the proceedings being concluded according to the ordinance upon the matter, let these original proceedings be delivered to citizen Macsimo Martinez, with the documents he presented, for the purpose that may suit him. The citizen José Ma. Alviso, constitutional alcalde of the pueblo of San José de Guadalupe, acting as judge ad interim with two attesting witnesses, for want of a notary public, thus decreed, ordered and signed, this 23d day of February, 1836.

JOSÉ M. ALVISO.

Wit.: José Berreyesa,
Ignacio Martinez.

I certify the foregoing to be a true and correct amended translation from the original Spanish document on file in this office, in case No. 36, Macsimo Martinez.

GEO. FISHER, *Sec'y.*

U. S. SURVEYOR GEN'L OFFICE,
San Francisco, Cal., April 27, 1857.

I, John C. Hays, U. S. sur. gen'l for California, and, as such, having in my custody the papers of the late board of land commissioners to "ascertain and settle the private land claims in the State of California," do hereby certify the foregoing ten pages to be a correct copy of the papers on file in my office, endorsed: No. 36, Macsimo Martinez—Cañada del Corte de Madera—Of. Doc. H. J. T., No. 3, to the deposition of W. A. Richardson—Judicial possession—Translation—Filed in office Feb. 8, 1853. Geo. Fisher, sec'y—Recorded in Record of Evidence, vol. 7, p. 372. Geo. Fisher, sec'y.

[L. S.] Given under my hand and official seal, at the city of San Francisco, this twenty-seventh day of April, 1857.

JOHN C. HAYS,
U. S. Sur. Gen'l Cal.

Endorsed: Filed April 27th, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Stipulation.

U. S. District Court, northern district of California.

THE UNITED STATES, Appellees,
vs.
DOMINGO PERALTA, Appellant. } No. 395.

It is stipulated that the date of the document contained in a paper filed in this case April 18th, 1857, and purporting to be a transcript of part of a record in the surveyor general's office, should be "19th of May, 1834," instead of 12th of May, 1834, as shown in the translation contained therein.

WM. BLANDING,
Dist. Att'y.
H. W. CARPENTIER,
Att'y for Appellant.

Endorsed: Filed May 4th, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of Juan Peralta.

United States District Court, northern district of California.

SAN FRANCISCO, *Aug.* 18, 1857.

On this day, before Cutler McAlister, a commissioner of the

United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Juan Peralta, a witness produced on behalf of the claimant in case No. , being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 306 on the docket of the said board of commissioners, and was duly sworn and testified as follows, his evidence being interpreted by Robert Simson, a sworn interpreter.

Present, H. W. Carpentier for claimant, and U. S. dist. att'y.

Questions by Att'y for Claimant.

Ques. 1. Your name, age and place of residence?

Ans. Juan Peralta; I am 31 y'rs old; I live in Alameda county.

Ques. 2. What do you know, if anything, concerning the possession by Domingo Peralta of the rancho called Cañada del Corte de Madera, in Santa Clara county?

Ans. 2. I know that my father lived in that rancho, and that I lived there with him there about 1833 and 1834. My father is Domingo Peralta, the claimant in this case. I was a boy at the time. My father had at that time somewhere about 350 head of cattle grazing upon the rancho at that time. My father afterwards went to live in Contra Costa; he has lived in Contra Costa ever since. After my father went to live in Contra Costa, Maximo Martinez had the rancho. I know that my father has demanded possession of Maximo Martinez of his share of this rancho. My father and Don Maximo had the rancho half and half. The manner in which my father demanded his share of the rancho was, that he put me in his place to demand from Don Maximo that part of the rancho which belonged to him. I went to the rancho as the agent of my father to demand possession, also bearing a letter from my father to Don Maximo, whereupon Don Maximo became enraged and threatened to beat me. My father wished to go upon the land at this time for the purpose of possessing it, and for the purpose of building a house upon it, and planting a vineyard on it, and also for the purpose of putting cattle on it. I so explained my father's desire when I made the above demand for possession. The only answer which Don Maximo made was a threat to beat me if I ever came back again. This demand I made happened in the year 1841 or 1842. At that time I was about 16 years old. About the year 1844 my father deputed me to make a demand before the judge, in San José, for the possession of his part of the rancho. The judge was Antonio Maria Pico; he refused to take jurisdiction of the case and referred me to the government. We did not refer it to the government, because at that time the Californias were in revolution against the government; it was the time they drove out Micheltorena. In the last mentioned year, previous to going be-

fore the judge, I again demanded the possession of the rancho from Don Maximo personally; he refused to give it. In the year 1833 my father had 3 legitimate children, who are now alive; they are myself, Juan Peralta, my sister Maria de los Angeles Peralta, and my sister Maria Antonio Peralta; my first named sister is about 33 years old, and *the* my second named sister is about 28. My father also has other legitimate children born since 1834. My father has always, up to this time, claimed his right to one-half of the rancho.

Cross-examination.

Ques. by U. S. Dist. Att'y.

My father first sent me to demand possession in the year 1841 or 1842.

I do not know that my father ever sold his portion of the rancho to Don Maximo.

I do not know that Don Maximo ever claimed that my father had sold him his portion of the rancho.

his
JUAN ✕ PERALTA.
mark.

Subscribed and sworn to before me, this 18 Aug., 1857.
CUTLER McALLISTER,
U. S. Comm'r.

Endorsed: Filed September 14th, 1857.
JOHN A. MONROE, *Clerk.*
By J. EDGAR GRIMES, *Deputy.*

Deposition of Antonio Maria Peralta.

United States District Court, northern district of California.

SAN FRANCISCO, *September 28th*, 1857.

On this day, before Geo. Pen Johnston, a commissioner of the United States for the district of California, duly authorized to administer oaths, &c., &c., came Antonio Maria Peralta, a witness produced on behalf of the claimant in case No. 395, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California in case No. 306 on the docket of the said board of commissioners, and was duly sworn and testified as follows, his evidence being interpreted by Cipriano Thurn, a sworn interpreter.

Present, the U. S. dist. att'y on behalf of the United States, and Horace Carpentier on behalf of claimant.

Questions by Horace Carpentier, Esq., on behalf of Claimant.

Question No. 1. What is your name, age and place of residence?

Ans. 1. My name is Antonio Maria Peralta; I am fifty-five years of age, and my place of residence is San Antonio, Cala.

The writing down of the questions herein waived.

I know Domingo Peralta, the claimant in this case; I know his signature; I have seen him write.

The witness is here shown a certain paper on file in case No. 36 before the land commission, endorsed "Doc. No. 1, annexed to the depo. of Jose Abrego, taken before Com'r H. J. Thornton," being a document in the Spanish language, purporting to be signed by Domingo Peralta, a copy of which is filed by the U. S. in this case. The witness is asked the question, "Is the signature to the document shown you the correct and genuine signature of Domingo Peralta?"

Ans. It is not; the letters of the name are not like those of a genuine signature of Domingo Peralta; also the name of José is wanting to the signature, and Domingo Peralta always wrote his name José Domingo Peralta; and the rubric in the signature now shown me is different from the rubric of Peralta's genuine signature; the letters to the signature shown me seem to be written by some one who was trying hard to imitate Peralta's signature, and are forced and falsely made.

(The att'y for the U. S. objects to the last part of the answer being taken down, viz: so much as refers to the character of the letters in the signature.)

Domingo Peralta had no other grant of lands from the Mexican gov't, except the land granted in this case, and at the date of the instrument above described as "Doc. No. 1, ann'xd to the depo. of José Abrego, etc." he owned no other lands; at the time of the date of the "Doc. No. 1, &c.," referred to, Domingo Peralta had three legitimate children, who are now alive, and he has also several legitimate children born since that time.

Cross-examination on behalf of the U. S. Questions by Att'y.

Domingo Peralta is about sixty years of age; I have known him for about the last fifty years; for about two years of the last thirty he lived on the land in this case; for the remainder of that period he had lived at San Antonio; the two years he lived on the land in this case, I think, were between the years 1820 and 1830, but I am not certain about it. He has lived in San Antonio for the last twenty-five years, and during that time he has been engaged in working for his subsistence, and in taking care of county property, horses, cattle, &c., some six or seven thousand head altogether. The cattle, &c., belonged to the family in general. There were four brothers. I don't know whether Domingo Peralta has visited the land in this case during the last twenty-five years or not.

(The att'y for the claimant here objects to all such questions as are not directly in the nature of a cross-examination.)

Domingo Peralta and I have lived for the last twenty-five years on the same tract of land, at the distance of one or two leagues apart. I have known Maximo Martinez for a good many years, but don't know anything about his character. I have compared the signature to the document heretofore spoken of, with one genuine signature of Domingo Peralta. I was applied to by the att'y for the claimant in this case to know if I had letters or other documents with the signature of Domingo Peralta. At first I thought I had not, but on searching I found one document with his signature to it, and have brought it to compare it with the one shown me; but without such comparison I would have known the signature shown me as being false, and not the genuine signature of Domingo Peralta. The signature to the one document I have in my possession was written about a year ago. I have not seen Domingo Peralta write for the last five years, because we have lived so far apart. I may have seen him write in the last fifteen years, but I don't recollect the date. I don't know whose handwriting the body of the document is to which the signature of Domingo Peralta now shown me is attached.

Do you know the handwriting of Salvio Pacheco?

Objected to by att'y for claimant.

Ans. I do know the handwriting of Salvio Pacheco. I don't know whether he wrote the body of the document referred to or not. There is no part of the rubric to the document shown me like any rubric of Domingo Peralta I ever saw.

ANTO. MA. PERALTA.

Sworn to and subscribed before me this 28th day of September, A. D. 1857.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed October 13th, 1857.

JOHN A. MONROE, *Clerk.*
By J. EDGAR GRYMES, *Deputy.*

Deposition of Antonio Maria Peralta.

UNITED STATES DISTRICT COURT,
Northern District of California.

SAN FRANCISCO, *Jan'y 14th*, 1858.

On this day, before Geo. Pen Johnston. a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Antonio Ma. Peralta, a witness produced on behalf of the claimant in case No. 395, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 306 on the docket of the said board of commissioners, and was duly sworn, and testified as follows, his evidence being interpreted by Cipriano Thurn, a sworn interpreter.

Present, the U. S. district attorney on behalf of the United States, and Horace Carpentier, esq., on behalf of claimant.

Direct Examination. Questions by Att'y for Claimant.

Ques. 1. What is your name, age, and place of residence?

Ans. 1. My name is Antonio Ma. Peralta; my age is fifty-five years, and I reside at San Antonio, California.

Ques. 2. Have you heretofore been examined as a witness in this case?

Ans. 2. I have.

Ques. 3. Have you found amongst your papers any documents signed by Domingo Peralta between the years 1830 and 1840? If so, please produce them.

Ans. 3. I have found one such paper which I now produce. (The paper now produced, and is marked "Exhibit No. 1, G. P. J., and filed herein. Johnston, U. S. Comm'r.") The paper I produce is a letter from him to me; at the time of the date of the letter it was received by me. The letter bears date October 3d, 1834.

Ques. 4. Has this letter been in your possession from the time it bears date until the present time?

Ans. 4. It has.

Ques. 5. In whose handwriting is this letter?

Ans. 5. It is in the handwriting of my brother José Domingo Peralta, the claimant in this case; there is no other Domingo Peralta.

Ques. 6. Is the signature to this letter the genuine signature of Domingo Peralta?

Ans. 6. It is.

Ques. 7. State whether you have seen many signatures of Domingo Peralta; and if yes, whether this is the same as all of his genuine signatures?

Ans. 7. I have seen many signatures of Domingo Peralta's, and the one affixed to this letter is like all of the others.

Ques. 8. Is this signature like or unlike the signature which appears upon a document referred to in your deposition, heretofore taken before Geo. Pen Johnston, U S. comm'r, in this case, and therein described as a certain paper on file in case No. 36 before the land commission, endorsed "Doc. No. 1, annexed to the depo. of José Abrego, taken before Com'r H. J. Thornton, &c.?"

Ans. 8. It is unlike the signature which appears on that document; it is very much unlike that signature.

Ques. 9. Up to what time, or about what time did Domingo Peralta continue to live in the rancho of Corte Madera, claimed in this case?

Exhibit No. 1—G. P. J.

Al S'or Antonio Maria Peralta en su Rancho de San Antonio.

SAN EMIDIO, 3 *de Octubre de* 1834.

A S'or Antonio Maria Peralta: Estimado er mano resebi las de ustedes en las que me a puran que me balla para bernos juntos antier es tube en la casa y ledige unie padre que nomas y ba aser un poco degabon al rancho de Señor Carlos que biniendo de alla me me iria de paso dile a bisente que no ledige nada a Rafael Soto por que la careta que estoll u cabando es par del pero que mesiembre una fanega de trigo bien sembrada llo laire a cose charnil padre me digo que lemandara el rabi caro crere que ba aberlos y nomas y ustedes resibanlas desuermano que todo bien tes desea.

JOSÉ DOMINGO PERALTA.

Ans. 9. He continued to live there up to a time later than the date of the letter I have produced, Oct. 3d, 1834.

Ques. 10. Was the rancho Corte de Madera known by any other name?

Ans. 10. It was also, after being granted, called San Emillio.

ANT'O MA. PERALTA.

Sworn to and subscribed before me, this 14th day of January, A. D. 1858.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed January 14th, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Translation of Exhibit No. 1, *G. P. J.*

SAN EMIDIO, *October* 3*d*, 1834.

To Mr. ANTONIO MARIA PERALTA:

DEAR BROTHER: I received yours in which you urge me to come, in order that we may be together; yesterday I was at the casa, and told my father that I only would make a little soap at the ranch of Señor Carlos, and that returning from there I would go directly; tell Vicente that I did not say anything to Rafael Soto, because the cart that I am just finishing is for him, but that he sow for me a fanega of wheat well sown; I will go to harvest it; my father told me to send him the white-tailed horse; I think that he goes to see you; that is all.

Receive the compliments of your brother, who wishes your good.

JOSÉ DOMINGO PERALTA.

Translation, by Interpreter Cipriano Thurn, of "Exhibit No. 1, G. P. J."

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed January 14, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Affidavit of Claimant.

U. S. District Court, northern district of California.

DOMINGO PERALTA, Appellant,
vs
THE UNITED STATES, Appellees. } Case No. 395.

For part of "Cañada del Corte de Madera."

José Domingo Peralta being duly sworn, says that he is the party claimant in this case, and that since the perfection of the appeal herein he has sold and conveyed his entire interest in this suit, and in and to all the land and property claimed herein, to Cipriano Thurn and Horace W. Carpentier, and he prays that, in the further prosecution of this case, the said grantees may be substituted as claimants in his place.

JOSÉ DOMINGO PERALTA.

Sworn to and subscribed before me this 13th day of January, A. D. 1858. GEO. PEN JOHNSTON,
Clerk C. C. U. S. and U. S. Commissioner for the Dists. of Cala.

Endorsed: Filed January 18, 1858.

JOHN A. MONROE, *Clerk*.
By W. H. CHEVERS, *Deputy*.

Copy of Deed.

This indenture, made the 20th day of August, in the year of our Lord one thousand eight hundred and fifty-seven, between José Domingo Peralta and Edubijes Garcia de Peralta, his wife, of the county of Alameda, of the first part, and Cipriano Thurn, of the city of San Francisco, of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of one thousand dollars of lawful money of the United States of America, to them in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have remised, released and quit-claimed, and by these presents do remise, release and quit-claim, unto the said party of the second part, and to his heirs and assigns forever, all the following described property situate in the county of Santa Clara, or partly in the county of Santa Clara and partly in the county of San Mateo, in the State of California, and being one undivided half part of all the right, title, interest, property, possession, claim, and demand of said parties of the first part, of, in, and to a certain tract or parcel of land or rancho known and described as the rancho "la Cañada del Corte de Madera," which was granted by Governor J. Figueroa to the said José Domingo Peralta and Maximo Martinez conjointly, said rancho containing one square league of land more or less, according to the boundaries as shown in said grant, and the whole part or interest of the said parties of the first part being one equal undivided half part of said rancho or tract of land, with full right to

collect and recover and receive of and from said Maximo Martinez and all other persons, the rents, issues, and profits of said land hereby conveyed, and all damages for trespass upon, or detention thereof, by him or them, since the 1st day of January, A. D. 1834, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in, or to the above-described premises, and every part and parcel thereof, with the appurtenances:

To have and to hold all and singular the above-mentioned and described premises, together with the appurtenances, unto the said party of the second part, and his assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

JOSÉ DOMINGO PERALTA, [SEAL.]

her
MARIA EDUBIJES ⋈ DE PERALTA. [SEAL.]
mark.

Signed, sealed and delivered in presence of—
C. J. BRENHAM.

STATE OF CALIFORNIA,
City and County of San Francisco, ss.

On this twenty-first day of August, A. D. one thousand eight hundred and fifty-seven, before me, C. J. Brenham, a notary public in and for said city and county, duly commissioned and sworn, personally appeared José Domingo Peralta and Maria Edubijes de Peralta, his wife, whose names are subscribed to the annexed instrument, as parties thereto, personally known to me to be the individuals described therein, and who executed the same, and they and each of them acknowledged to me that they executed the said instrument each respectively, freely and voluntarily, and for the uses and purposes therein mentioned. And I do hereby further certify, that the said Maria Edubijes de Peralta, wife of the said José Domingo Peralta, is personally known to me to be the person whose name is subscribed to said instrument, as a party thereto; and that she was by me first made acquainted with the contents thereof, and thereafter acknowledged to me on examination separately, apart from and without the hearing of her said husband, that she executed the same freely and voluntarily for the uses and purposes therein mentioned, without fear or compulsion or undue influence of her said husband, and that she did not wish to retract the execution of the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written. [L. S.]

C. J. BRENHAM, *Notary Public.*

Endorsed: Filed January 18, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Copy of Deed.

Third indenture, made the thirty-first day of December, in the year of our Lord one thousand eight hundred and fifty-seven, between José Domingo Peralta and Edubijes G. de Peralta his wife, of the county of Alameda, parties of the first part, and Horace W. Carpentier of said county, party of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of four thousand dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said party of the second part, and to his heirs and assigns forever, all and singular the following described real estate and property, viz: the equal undivided one-fourth part of all that certain tract of land or rancho lying and being situated partly in the county of Santa Clara, and partly in the county of San Mateo, in the State of California, and known and described as the "rancho Cañada del Corte de Madera," which said rancho was granted by that name by Governor José Figueroa, and the departmental assembly of Upper California, to the said Domingo Peralta and Maximo Martinez, in company in equal ownership, the said José Domingo Peralta being the grantee and owner of the undivided moiety of said rancho, and the intention of this instrument being to convey to the said party of the second part the undivided one-half of the said undivided moiety; the said rancho being watered by the Matadero and San Francisquito creeks, and being the same on which the said Martinez now resides, and containing one square league of land more or less; together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to the above described premises, and every part and parcel thereof, with the appurtenances: to have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and his heirs and assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

JOSÉ DOMINGO PERALTA, [SEAL.]

her
EDUBIGES G. ⋈ DE PERALTA. [SEAL.]
mark.

Signed, sealed and delivered in the presence of—
CIPRIANO THURN.

STATE OF CALIFORNIA,
City and County of San Francisco, ss.

On this thirty-first day of December, A. D. one thousand eight hundred and fifty-seven, before me, Samuel Hermann, a notary public in and for said said city and county, duly commissioned and sworn, personally appeared José Domingo Peralta and Edubiges G. de Peralta, his wife, whose names are subscribed to the annexed instrument as parties thereto, personally known to me to be the individuals described therein, and who executed the same, and they and each of them acknowledged to me that they executed the said instrument, each respectively, freely and voluntarily, and for the uses and purposes therein mentioned; and I do hereby further certify that the said Edubiges G. de Peralta, wife of the said José Domingo Peralta, is personally known to me to be the person whose name is subscribed to said instrument as a party thereto, and that she was by me first made acquainted with the contents thereof, and thereafter acknowledged to me, on examination separately, apart from and without the hearing of her said husband, that she executed the same freely and voluntarily, for the uses and purposes therein mentioned, without fear or compulsion, or under influence of her said husband, and that she did not wish to retract the execution of the same.

In witness whereof, I have hereunto set my hand, and affixed [SEAL.] my official seal, the day and year in this certificate first above written.

(Signed) SAM'L HERMANN,
[SEAL.] *Notary Public.*

Endorsed: Filed January 18, 1858.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order of Substitution.

U. S. District Court, northern district of California.

DOMINGO PERALTA, Appellant,
vs.
THE UNITED STATES, Appellees. } Case No. 395.

For part of "Cañada del Corte de Madera."

On filing the affidavit of claimant and copies of conveyances, the

originals of which were produced and duly proven, and it appearing therefrom, to the satisfaction of the court, that Cipriano Thurn and Horace W. Carpentier have, since the perfection of the appeal herein, duly succeeded to all the rights, claim, and interests of Domingo Peralta, the appellant in this case, and the district attorney consenting thereto, it is ordered that the said Thurn and Carpentier be substituted in the place of the said Peralta as claimants herein, and that this suit be further prosecuted in their names.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed January 18th, 1858.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of Jose Domingo Peralta.

United States District Court, northern district of California.

SAN FRANCISCO, *January* 19, 1858.

On this day, before S. Edgar Grymes, a special commissioner and referee, appointed by the district court of the United States for the northern district of California, duly authorized to administer oaths, &c., came José Domingo Peralta, a witness produced on behalf of the claimant, in case No. 395, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 306 on the docket of the said board of commissioners, and was duly sworn, and testified as follows, his evidence being interpreted by Herman Wohler, a sworn interpreter:

Present, the U. S. dist. att'y, and H. W. Carpentier for claimant.

Questions by Claimant's Counsel.

1st ques. What is your name, age, and place of residence?

1st ans. My name José Domingo Peralta; 61 years old; and I reside in Alameda county.

2d ques. Do you know the rancho called Cañada del Corte de Madera?

2d ans. Yes, sir; I know it well. I do not know whether it is in Santa Clara or San Mateo county, not knowing the county lines?

3d ques. Do you know to whom said rancho was granted? If yea, state to whom.

3d ans. I do. To myself and Maximo Martinez.

4th ques. Have you any interest now in said rancho, or in the event of this suit?

4th ans. I have no interest whatever.

5th ques. Have you conveyed your interest? if so, to whom?

5th ans. I have sold it—one-half to Horace W. Carpentier, and the other half to Cipriano Thurn.

6th ques. State whether you ever sold or gave your interest in said rancho, or any part thereof, to any person previous to your sale to present claimants.

6th ans. I never did to anybody.

7th ques. The witness is here shown a certain paper, on file in case No. 36 before the land commission, endorsed "Doc. No. 1, annexed to the depo. of José Abrego, taken before Com'r H. J. Thornton," being a document, in the Spanish language, purporting to be signed by Domingo Peralta, a copy of which is filed by the United States in this case, and the witness is asked: Examine the document now shown you and state whether you ever signed it, and whether the signature thereto is in your handwriting?

7th ans. It is not my signature, and I never signed it, and it is not my rubric. It is better written than I ever wrote. This is written with a free and light hand; but I cannot write so. I write a heavier hand, as if I was cutting paper.

8th ques. The witness is now shown a document marked "Exhibit No. 1, G. P. J.," annexed to the deposition of Antonio Maria Peralta, taken before Commissioner Geo. Pen Johnston, filed in this case, and is asked in whose handwriting is the said document, and whose is the signature thereto?

8th ans. I wrote it. It is my signature. I wrote it on the 3d of October, 1834, and I can recite the letter by memory now.

9th ques. State in what respect your genuine signature on the last-mentioned document differs from the signature that appears on the first herein mentioned document.

9th ans. In making my rubric, I make sometimes two turns, sometimes three, but never more than three; then I finish it in making the crook, as I show you now in this second document; whereas, the rubric that appears in the first-mentioned document is made with a large number of little turns, with a crook to the end of it, such as I never made. It also differs in this: that my genuine signature to document No. 2 is signed José Domingo Peralta, as I always sign my name; whereas, the signature to No. 1 is signed Domingo Peralta. I have never signed my name Domingo Peralta. I always sign José Domingo Peralta. I have all my life so signed it.

10th ques. State what you know concerning the settlement and occupation of said rancho.

10th ans. I lived on the ranch in the year 1833 and 1834, and I cultivated some of the land. I moved a house from Santa Clara to the rancho. It was a wooden house, where I built it. It was a pretty good house. I lived in it up to the end of October, 1834. I was in possession of said rancho from the beginning of 1833 until the time when I left, in October, 1834, as I have before said.

I built corrals there, had my cattle there, and had a large quantity horses, both wild and tame.

I myself paid six dollars to buy the stamped paper on which the grant was written. Maximo Martinez paid no part of it.

Maximo Martinez lived with his family in the pueblo of San José during the time I lived on the ranch, and he only came there on a visit occasionally. He was then "regidor" of the pueblo.

11th ques. State whether you have always, ever since you left said rancho, in 1834, claimed to be the half owner of said rancho up to the date of your sale to the present claimants.

11th ans. Yes, sir, I have always claimed it. I have never thought of abandoning it.

12th ques. Who has occupied the rancho since 1834?

12th ans. Maximo Martinez. I considered that I held possession of the ranch for Maximo Martinez and myself, under our joint grant from the government, up to the latter part of 1834, and since then that he held possession of said grant for both of us under said grant.

13th ques. Did you ever receive anything from Maximo Martinez for your interest in said rancho, or did he ever pay you any portion of the money which you expended in making improvements on the rancho when you settled upon it?

13th ans. He never paid me a cent. He never paid me any portion of the expenses; I always considered myself half owner of the rancho, and I never claimed of him to pay me back the share of the expenses I made in settling the ranch. Maximo Martinez lived in my house when he came on the ranch.

14th ques. Did you ever have any other land granted to you from the Mexican government?

14th ans. I never had.

15th ques. What other lands did you own in May, 1834?

15th ans. I had no other land.

16th ques. Why did you leave your rancho of Corte Madera in 1834?

16th ans. Because it was the desire of my father and of my brothers that we should all live together on the same ranch, portion of which I am occupying now; it was the rancho of my father. They desired me to live there to help them take care of the cattle, and improve it. I have continued ever since to live on said ranch; a portion of it has been given to me by my father.

17th ques. Was the rancho Corte Madera known by any other name?

17th ans. We also called it "San Emedio."

JOSÉ DOMINGO PERALTA.

Sworn to and subscribed before me this 19th day of December, 1858.

S. EDGAR GRYMES,
Special Commissioner.

Endorsed: Filed January 23d, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Opinion by his Honor Judge Ogden Hoffman.

CIPRIANO THORN et als. vs. THE UNITED STATES. } No. 395.—"Cañada del Corte de Madera."

In this case the genuineness of the grant, the regularity of the proceedings, and the fulfilment by the grantees of all the conditions, are established by abundant proofs, and admitted on the part of the U. S.

The proceedings up to the issuance of the final title, and including an approval of the grant by the departmental assembly, were conducted in strict conformity to the regulations of 1828, and on the 11th June, 1834, the final document required by those regulations was issued to the applicants, Macsimo Martinez and Domingo Peralta.

The present claim is by the representatives of the latter, and is for one-half of the rancho. Maximo Martinez has also presented his claim, which, however, embraced the whole rancho. To establish his title to the share of his co-grantee, he gave in evidence an alleged conveyance, dated May 1st, 1834, from Peralta to himself.

As this conveyance seemed prima facie to show the whole title to be in Martinez, the claim to the whole was confirmed to him by the board and by this court.

Domingo Peralta now presents his claim, and would clearly be entitled to a confirmation of one ½ the land had not the U. S. put in evidence the conveyance alleged to have been made by him to Martinez, as above stated.

Many objections to this document were urged on the part of the claimant; both its genuineness and supposed legal effect were strenuously denied.

The district attorney declined to argue the questions discussed by claimants, observing that the controversy was one in which the U. S. had not the slightest interest; that the grant was unquestionably valid, and the land had already been confirmed to Martinez, the appeal in whose case had been dismissed by order of the Attorney General. He further observed, that no decision of this court could in any way determine private rights inter partes to land admitted not to belong to the U. S., and to which the full, legal and equitable title was already vested in private individuals.

The district attorney was understood to say that he interposed no objection to a confirmation to the present claimant if the court was of opinion that such a decree should be entered.

It has heretofore been decided by the board and by this court that third persons have no right to intervene in these proceedings to ascertain whether lands claimed under titles derived from the former government are public or private lands. As the decree of this court, and the patent issued under it, cannot affect the rights of any parties except the U. S. and the claimants, it seemed manifestly improper to allow an inquiry instituted to ascertain the rights of the U. S., and to determine what was private and what public land, to be coverted into complicated series of cross ejectments between various private claimants, and this where the decision of the court could not, in any event, decide the rights litigated before it.

The only course, therefore, to be adopted was to confirm to the claimant whenever he, by a deraignment of title, prima facie regular, showed himself to be the owner of a valid grant.

This mode of proceeding involved, it is true, the apparent anomaly of confirming in some cases the same land to different persons claiming under the same original grant. But as each suit was separate, and as the court could not enter into question of adverse private rights, this anomaly was not to be avoided.

Had the present claimant been permitted to intervene in the case of Martinez, he perhaps might have shown, as he claims to have done in this case, that the alleged conveyance to Martinez was fabricated or inoperative.

As he was not permitted to do so, it seems equally improper to allow that conveyance to be introduced into this case, nominally on the part of the U. S., but really on the part of Martinez, to defeat the claim of Peralta to a confirmation, which, if it were not for that conveyance, he would be clearly entitled to.

Besides, if the validity of that conveyance is to be passed upon by this court, Martinez should be heard and allowed to introduce testimony.

The district attorney has neither any interest nor power to represent him. To the United States it is indifferent whether the land belongs to both the original grantees or to Martinez alone.

To refuse to confirm this claim is a recognition of the validity of a conveyance which may be liable to grave objections. But to confirm the claim is merely to give to the claimant a right to a deed from the U. S. relinquishing and quitclaiming any supposed title it might have been deemed to possess, and the reception of which merely puts the claimant on an equal footing with his adversary, and enables him to contest with equal evidence of title from the U. S. their adverse rights before the ordinary tribunals.

I think that the only course to be adopted is, to confirm this claim, and to leave the question of ownership inter partes to be litigated before the tribunals having jurisdiction over the subject-matter of the controversy.

A decree must be entered accordingly.

Decree.

United States District Court for the northern district of California.

CIPRIANO THURN and HORACE W. CARPENTIER, Apellants,
vs.
THE UNITED STATES, Appellees.

Decree No. 395.—Stated term, March 17th, 1858.

This cause came on to be heard at a stated term of this court, on appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved March 3, 1851, upon the transcript of the proceedings and decision, and the papers and evidence on which the said case was founded, and the further evidence taken in this court, and papers filed herein, and it appearing to the court that the said transcript has been duly filed, and that the land is situated within the territorial jurisdiction of this court, and counsel for the respective parties having appeared, and the court being sufficiently advised in the premises, and it appearing to this court that there was error in the decree of said commissioners, and the attorney for the United States consenting thereto:

It is hereby ordered, adjudged and decreed that the decree of said commissioners, rejecting the claim herein, be and the same is in all things reversed and annulled.

It is further ordered, adjudged and decreed that the claim of the said appellants, Cipriano Thurn and Horace W. Carpentier, herein, is valid, and the same is hereby approved and confirmed.

The land of which confirmation is hereby made is the equal undivided one-half part of all that certain tract of land situated in the county of San Mateo, or the counties of San Mateo and Santa Clara, and in the northern district of California, and known by the name of "Cañada del Corte de Madera," and lying between and bounded by the rancho "Las Pulgas," the Santa Cruz range of mountains and the mission of Santa Clara, as the same was known and understood in 1833, the date of the grant herein, provided that there be not found more than the quantity of one square league of land within said boundaries; and if there be contained within said boundaries more than one square league of land, then there is hereby confirmed to said claimants, Thurn and Carpentier, the undivided one-half of a tract of land, equal in quantity to one square league of land, to be so located within said boundaries as to include the original settlement of the grantees hereinafter named, the land of the undivided moiety of which confirmation is hereby made, being the same which was granted under the name of "Cañada del Corte de Madera," by Governor José Figueroa, to Maximo Martinez and Domingo Peralta, conjointly, by decree of concession dated May 18, 1833, and by formal grant dated June 10, 1833, and approved May 17, 1834, and which was occupied by them, reference

for further description of said boundaries being had to the grant and map forming part of the "expediente," a traced copy of which was filed before the board of land commissioners in this case.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed April 6th, 1858.

W. H. CHEVERS, *Clerk.*

Order granting Appeal.

At a stated term of the district court of the United States of America, for the northern district of California, held at the court-room in the city of San Francisco, on Saturday, the seventh day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
CIPRIANO THURN and HORACE W. CARPENTIER. } D. C. 395.—L. C. 306.

In this case, on application of P. Della Torre, esq., U. S. att'y, it is ordered that an appeal in behalf of the United States from the final decision of the court rendered in said case at the December, 1857, term be, and the same is hereby, granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay, and the appellants are ordered to serve the usual citation according to law.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed August 7th, 1858.

W. H. CHEVERS, *Clerk.*

Citation.

United States of America to Cipriano Thurn and Horace W. Carpentier, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden in Washington, on the first Monday in December next, pursuant to an order of appeal granted on the seventh day of August, A. D. 1858, by the district judge of the district court of the United States for the northern district of California, in a certain suit, wherein the United States are plaintiffs and you are defendants, on appeal to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco, this seventh day of August, in the year of our Lord one thousand eight hundred and fifty-eight. OGDEN HOFFMAN, [L. S.]
Dist. Judge.

Due service of within citation, by copy, by U. S. marshal, admitted this 11th day of August, 1858.

H. W. CARPENTIER.

Endorsed: Filed August 11th, 1858.

W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify that the annexed and foregoing pages, numbered from one to one hundred and seventy-five, both inclusive, contain a full, true, and correct transcript of the record from the board of U. S. land commissioners, and of the pleadings, proceedings, depositions, certified documents, orders, opinion, decree and citation, in said court, filed in this office in the case of The United States, appellants, v. Cipriano Thurn et al., appellees.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at San Francisco, this nineteenth day of August, A. D. 1858, and of our independence the 83d.

[SEAL.]

W. H. CHEVERS, *Clerk.*

Filed September 21, 1858.